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Parliamentary paper

Local government: Results of the 2005/06 audits





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Local government: Results of the 2005/06 audits

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Representatives under section 20 of
the Public Audit Act 2001

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Hon Margaret Wilson MP
Speaker
House of Representatives
WELLINGTON

Madam Speaker

I am pleased to forward this report to you for presentation to the House of Representatives under section 20 of the Public Audit Act 2001.

Yours faithfully

A handwritten signature in black ink, consisting of a horizontal line that curves upwards and loops back to the left.

K B Brady
Controller and Auditor-General

Wellington

21 June 2007

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Introduction

This is our report on the 2005/06 audits of the local government sector. Most of these audits were of regional and territorial local authorities and their subsidiary entities.

This is the second year that all regional and territorial local authorities reported under the full requirements of the Local Government Act 2002 (the Act). This meant all local authorities reported actual performance against their first Long-Term Council Community Plan (LTCCP), adopted in either 2003 or 2004. Under the Act, the LTCCP is now the basis of a local authority's annual financial and performance accountability to its community. From 2006/07, each local authority will report against its audited 2006-16 LTCCP.

Purposes of this report

The purposes of this report are to:

- tell Parliament and the local government sector about matters arising from carrying out our role as auditor of the sector;
- describe examples of our expectations of best practice on various matters of financial management and reporting, governance, and administration;
- highlight some matters and make some observations on development contributions; and
- provide the findings from some performance audits carried out during the year that affect local government.

Part 1

Issues from the 2005/06 audits

1.1 Review of the 2005/06 year

- 1.101 For 2005/06, local authorities prepared annual reports under the provisions of the Local Government Act 2002 (the Act). This was the second year that all local authorities reported on this basis, and the requirements of the Act continued to be a challenge.
- 1.102 Local authorities are required to adopt audited annual reports by 31 October each year – four months after balance date. Two local authorities were unable to meet this requirement in 2006.
- 1.103 While valid reasons prevented some local authorities from timely reporting, one council – the Invercargill City Council – and its associated group is yet to report on both the 2004/05 and 2005/06 financial years. This lack of reporting by the council and its group is unsatisfactory.
- 1.104 We are concerned about the timing of the release of financial information to communities by local authorities. Twelve local authorities (excluding Invercargill City Council) – the same number as 2004/05 – were unable to provide their communities with audited summaries of their annual reports within the required one month of adopting their audited annual report. Again, we see this result as unsatisfactory.
- 1.105 The Act also requires local authorities to disclose:
- information on the effects of their activities on the social, economic, environmental, and cultural well-being of their communities; and
 - actual levels of service provision and the acquisition and renewal of assets compared to that planned.
- 1.106 As with 2004/05, the results of the sector reporting are, at best, mixed. In our view, local authorities need to focus on the quality of annual report disclosures and the timeliness of report production and availability to the community.
- 1.107 Local authorities have been subject to these requirements for two years (and to similar requirements under the Act's predecessor, the Local Government Act 1974). We will be obliged to consider our reporting options in the event that any local authorities fail to report adequately to their communities in future.
- 1.108 The 2006-16 Long-Term Council Community Plan (LTCCP) was a major focus for all local authorities in 2005/06. Similarly, the LTCCP presented a substantial challenge for us, our appointed auditors, and their teams. In 2005/06, we continued to focus on our audit methodology and training audit teams. We also had extensive

discussions with the sector and individual local authorities on the implications of the first-time LTCCP audit and the need for careful project-based planning in preparing the LTCCP.

- 1.109 We report fully on the matters relating to our audits of the 2006-16 LTCCPs in a separate report to Parliament.¹

Matters discussed in this report

- 1.110 We discuss in more detail later in this report:
- council-controlled organisations (CCOs);
 - non-standard audit reports;
 - New Zealand equivalents to International Financial Reporting Standards (NZ IFRS); and
 - development contributions.

Council-controlled organisations

- 1.111 Local authorities continue to be associated with CCOs. There are still some issues about adequately preparing the statement of intent (SOI) or, where relevant, exempting CCOs from the SOI and annual report process (see article 1.4, *Non-profit council-controlled organisations*). The concept of “public entity” and accounting for public entities is not limited to CCOs, but does apply to them. A number of entities continue to dispute their status (see article 2.2, *Trusts controlled by local authorities – effect of the Public Audit Act 2001*).

Non-standard audit reports

- 1.112 We continue to issue a number of qualified audit opinions. Consistent with 2004/05, most adverse opinions generally relate to entities set up to manage cultural and heritage collections.² Accounting for these types of collections remains an issue for the sector and auditors.

New Zealand equivalents to International Financial Reporting Standards

- 1.113 In addition to the pressure of reporting on 2005/06 and preparing 2006-16 LTCCPs, local authorities also faced the pressure of early adoption of NZ IFRS. While early adoption is logical, we are concerned that the sector has yet to fully cope with the issue of conversion to NZ IFRS. Consequently, it may well threaten local authorities’ ability to complete timely reporting on the 2006/07 financial year. In

¹ *Matters arising from the 2006-16 Long-Term Council Community Plans*, parliamentary paper B.29[07c], ISBN 0-478-18187-6 (June 2007).

² *Local government: Results of the 2004-05 audits*, parliamentary paper B.29[06b], ISBN 0-478-18159-0, pages 27-33.

our view, some local authorities have shown undue reliance on our audit teams to solve their problems.

Development contributions

- 1.114 Development contributions are the most controversial addition to the revenue-raising powers of local government – particularly as they relate to property developers. Many local authorities have introduced policies on development contributions for the first time through their 2006-16 LTCCPs, and some have amended their policies since they were adopted for 1 July 2006.
- 1.115 Policies on development contributions are complex – even after the recent release of the High Court decision on North Shore City Council.³ The local government sector will need to monitor such matters closely. Local authorities might benefit from a sector-wide agreement on an approach that meets the legal requirements of the Act and that is also equitable between the interests of developers and the community.

Conclusion

- 1.116 Local authorities and our audit teams worked closely to enable local authorities to meet their statutory obligations to:
- report to their communities through audited annual reports and summaries;
 - carry out a significant planning process with their communities through their audited 2006-16 LTCCPs; and
 - prepare and complete the LTCCPs, as well as prepare for reporting their 2006/07 annual reports on an NZ IFRS-compliant basis.
- 1.117 Dealing with these issues has made an extensive call on the sector's expertise and resources, as well as on those of this Office, including our audit service providers.
- 1.118 The challenges of 2006/07 will include the first-time preparation of an annual report comparing performance against a complete and audited LTCCP, and “keeping an eye” on planning and preparing for the 2009-19 LTCCP. These challenges will require the sector and auditors to continue the co-operation and goodwill shown in 2005/06.

³ *Neil Construction Limited and others v North Shore City Council* (unreported, High Court, Auckland, CIV 2005-404-4690, 21 March 2007, Potter J).

1.2 Timeliness of annual reporting

- 1.201 The annual reports of local authorities provide information that assists communities to assess the performance of the local authorities. For this process to be effective, the information must be comprehensive and timely.
- 1.202 Each year, we examine the timeliness of annual reporting by local authorities.
- 1.203 Under the Local Government Act 2002 (the Act), each local authority is required to:
- complete and adopt its annual report, containing audited financial statements, within four months of the end of the financial year (by 31 October 2006 for the 2005/06 financial year);
 - make its annual report publicly available within one month of adopting it (by 30 November 2006 for the 2005/06 financial year); and
 - make a summarised version of the information contained in its annual report publicly available within one month of adopting the annual report (by 30 November 2006 for the 2005/06 financial year).¹
- 1.204 The local authority determines the timing of the preparation and publication of the audited annual reports within the requirements of the Act. The audit process fits into the approach determined by the local authority.

Completion and adoption of annual reports

- 1.205 Figure 1.1 shows the dates when the audits of local authorities were completed, which gives an indication of when local authorities were able to adopt their annual reports. It shows that all except two local authorities were able to adopt their annual reports within the statutory time limit.
- 1.206 The results show that most local authorities met the requirements of the Act. Only two local authorities did not achieve the statutory deadline. The results are not significantly different from those of the previous year.

Public release of annual reports

- 1.207 We also reviewed the timing of the release of annual reports to the community. The Act allows one month for public release from when the annual reports are adopted. We show the performance of local authorities in meeting this deadline in Figure 1.2.

¹ The actual timing required of any local authority is determined by when they complete and adopt their annual report. The dates for 2005/06 noted in paragraph 1.203 were the last possible deadlines.

Figure 1.1
Date of completing 2005/06 local authority audits

Date completed in 2006	Number of local authorities 2006	Number of local authorities 2005
1 July to 31 August	3	2
1 to 30 September	17	19
1 to 31 October	63	62
Subtotal: Number meeting statutory deadline	83	83
1 to 30 November	1	1
After 30 November	0	1
Not completed at time of this report*	1	1
Total	85**	86

* Invercargill City Council and group had not adopted its 2005/06 annual report at the time of writing this report, and it had also not released the report and its summary.

** Banks Peninsula District Council was amalgamated into Christchurch City Council during the 2005/06 year, reducing the total number of local authorities to 85.

Figure 1.2
Public release of 2005/06 annual reports

Period after adopting annual report	Number of local authorities 2006	Number of local authorities 2005
0-5 days	20	16
6-10 days	6	9
11-20 days	15	15
21 days to one month	37	37
Subtotal: Number meeting statutory deadline	78	77
One month to 40 days	6	4
41-50 days	0	3
81 days	0	1
Not released at time of this report*	1	1
Total	85	86

* Invercargill City Council and group.

1.208 Figure 1.2 shows that overall performance is improving. However, we remain concerned at the number of local authorities not meeting the deadline. Most local authorities make their annual report available to the public by publishing it on their website. We consider that publication could be more timely.

Public release of summary annual reports

- 1.209 We also reviewed the timing of the release of audited summaries of annual reports. The Act requires both the audited annual report and an audited summary to be released within one month after the annual report has been adopted. In our view, releasing the audited summaries is important for the accountability of local authorities. These summaries are the most accessible information for general readership and the easiest document to circulate and make widely available.
- 1.210 Figure 1.3 shows the performance of local authorities in releasing their annual report summaries.

Figure 1.3
Public release of audited summary of 2005/06 annual report

Period after adopting annual report	Number of local authorities 2006	Number of local authorities 2005
0-5 days	5	4
6-10 days	2	3
11-20 days	16	13
21 days to one month	49	53
Subtotal: Number meeting statutory deadline	72	73
One month to 40 days	10	6
41-50 days	1	3
51-60 days	1	1
60-109 days	0	2
Not released at time of this report*	1	1
Total	85	86

*Invercargill City Council and group.

- 1.211 As with making the full annual report available, the performance of the sector in making summaries of annual reports available shows some improvement. Local authorities are in some cases achieving the statutory deadline more promptly. There are some difficulties in publishing a summary, and it takes considerable work to summarise an annual report and have it published. However, as with the publication of the annual report, it is a known obligation. The more efficient local authorities take a project planning approach to producing, auditing, and publishing their annual report. We are already seeing a number of local authorities achieving simultaneous publication of their summary and annual report, as a result of sound planning. We encourage this approach.

Summary

- 1.212 Last year, we noted an improvement in timeliness in 2004/05 compared to previous years. However, we attributed this mainly to the tighter statutory deadlines required by the Act. In 2005/06, little further improvement was evident.
- 1.213 Twelve local authorities did not comply with the requirement to make a summary report available within one month of adopting the annual report. Of those 12, two did not comply in both years.
- 1.214 It is important to recognise that accountability is not achieved until the audited information is made available to ratepayers in a user-friendly form. A number of local authorities will need to give this matter greater attention in 2006/07 to ensure that their reporting not only includes prompt audit clearance but also informs their communities promptly.
- 1.215 We will continue to monitor the performance of local authorities in meeting these important accountability responsibilities.

1.3 Reporting on effects of activities in the annual report

- 1.301 The Local Government Act 2002 (the Act) contains a comprehensive reporting regime for all local authorities. The audited annual report of each local authority is the main means of that reporting. Local authorities are required to plan for, and report on, the effect of their activities on the social, economic, environmental, and cultural well-being (the four community well-beings) of their local communities.¹
- 1.302 The Act requires the Auditor-General to report on whether a local authority has complied with these requirements.²
- 1.303 In this article, we review how all local authorities approached these requirements. We focus on the reporting requirements of clause 15(d) and (f) of Schedule 10 in particular.
- 1.304 This is the third time we have reported on these disclosure requirements to Parliament. As new requirements of the Act, disclosures of the required information have ranged from available to difficult to identify (and, in some cases, there have been no relevant disclosures at all). Our practice to date has been to report where disclosures have been inadequate through our management letters to local authorities.

Background

- 1.305 In the decision-making process, local authorities are required to identify and consider how options affect the four community well-beings, community outcomes, and future generations. Recording this process appropriately and linking it to the performance management framework can substantially enhance a local authority's ability to identify and report on the effects of the activities it carries out. An integrated planning, decision-making, and reporting framework is crucial to meeting the requirements of the Act.
- 1.306 We recognise that, to be able to meet this requirement, local authorities will need to develop a comprehensive framework that links their monitoring of community outcomes, decision-making, and performance against levels of service to reporting that includes the identified effects of activities on the four community well-beings. It is clear from our previous reports³ and the annual reports of local authorities that this is a challenge. It is an area in which we expect to see substantial improvement.

1 These requirements are in clauses 2 and 15 of Schedule 10.

2 Section 99(1)(b). In clause 15(e) and (f) of Schedule 10, our obligation extends to actual verification of the information reflected in annual reports – in other words, we audit the disclosures.

3 *Local Government: Results of the 2003-04 Audits*, parliamentary paper B.29[05b], pages 61-87, and *Local government: Results of the 2004-05 audits*, parliamentary paper B.29[06b], pages 14-16.

- 1.307 We expect frameworks for monitoring community outcomes to be part of the Long-Term Council Community Plan (LTCCP).⁴ We expect the report on progress, which is required not less than once every three years, to be published at a time when the information it contains will be useful to the community for developing the next LTCCP.
- 1.308 Figure 1.4 demonstrates the related requirements between the LTCCP and annual report planning and reporting.

Figure 1.4**Related requirements in the LTCCP and annual report for each group of activities**

LTCCP (Schedule 10, clauses 1 and 2)	Annual report (Schedule 10, clause 15)
Identify the activities within the group of activities.	Identify the activities within the group of activities.
Identify the rationale for delivery of the group of activities (including the community outcomes to which the group of activities primarily contributes).	Identify the community outcomes to which the group of activities primarily contributes.
State the measures that will be used to assess progress towards achieving community outcomes. State how the local authority will monitor and report on the community's progress towards achieving community outcomes (not less than once every three years).	In relation to each group of activities, report the results of any measurement carried out during the year of progress towards achieving community outcomes.
Outline any significant negative effects any activity (within the group of activities) may have on any of the four community well-beings.	Describe any identified effects that any activity within the group of activities has had on the four community well-beings.
Identify additional or replacement assets needed to meet levels of service and/or demand.	Describe any significant acquisitions or replacements of assets, the reasons for the acquisitions or replacements, and the reasons for any variance from the LTCCP.

Note: Group of activities, as defined in the Act, means one or more related activities provided by, or on behalf of, a local authority or council-controlled organisation.

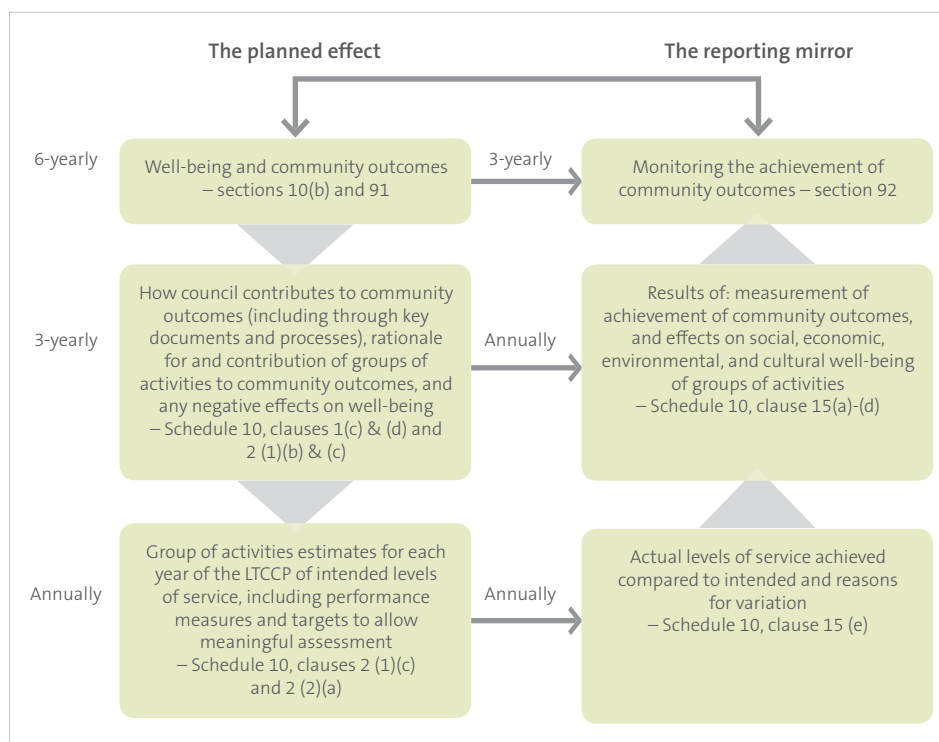
- 1.309 The requirements summarised in Figure 1.4 mean that a local authority needs to understand how it will monitor progress towards community outcomes so that it can produce reports on the result of measuring that progress. Consideration of the best approach for achieving this has involved substantial debate.
- 1.310 Preparing the LTCCP obliged local authorities to distinguish between the requirement to report on community outcomes at least every three years and the requirement to report on any measurement carried out that reflects a local authority's contribution to the achievement of outcomes through its activities. In

⁴ Schedule 10, clause 1(g).

focusing on the performance accountability framework, Figure 1.5 demonstrates how the Act envisaged the reporting framework for outcomes and levels of service.

Figure 1.5

The feedback flow of performance in the Local Government Act 2002



Focus for reviewing 2005/06 annual reports

Identifying effects on the four community well-beings, and disclosure of significant acquisitions

- 1.311 Last year, we reviewed how local authorities approached the annual report requirements of clause 15 of Schedule 10. For the annual reports for 2004/05, we considered the responses of all local authorities to the requirements of clause 15(d) and (f) of Schedule 10 – in particular, the 77 local authorities that were reporting for the first time.⁵ The focus in 2005/06 was to find out whether local authorities had made progress in the second year that the requirement applied to all local authorities.

⁵ Nine local authorities adopted an LTCCP one year earlier than the other 77 local authorities. As a result, those nine local authorities were required to report against the clause 15 requirements one year earlier.

- 1.312 In addition to the requirements for each group of activities listed in Figure 1.4, the annual report must contain:
- an audited statement comparing the actual and intended levels of service provision, and giving the reasons for any variance between the actual and the expected service provision; and
 - an audited statement describing any significant acquisitions or replacements of assets carried out during the year, and giving the reasons for those acquisitions or replacements, and the reasons for any significant variation between planned and actual acquisitions and replacements.⁶
- 1.313 In 2003/04 and 2004/05, we assessed reporting under clause 15(d) and (f) of Schedule 10 as the least well done of the annual report requirements.
- 1.314 As with most new planning and accountability provisions, we expected local authorities to show progress towards meeting these requirements. We found a variety of approaches. Several local authorities indicated that they were continuing to do work, particularly in identifying effects on the four community well-beings.
- 1.315 Some local authorities are still identifying how to monitor progress under clause 1(g) of Schedule 10. If local authorities are having difficulty planning how to monitor progress, effective reporting on achievement is likely to continue to be problematic. We consider this issue further in a separate report on our review of the LTCCP audits.⁷

Description of identified effects on the four community well-beings

What is required

- 1.316 Although the Act requires reporting against the four community well-beings, it does not specify how this is to be done.
- 1.317 A local authority therefore needs to establish the framework within which it makes decisions and determines how well its own activities and services contribute to community outcomes. It also needs to be able to report on the effects of these activities.
- 1.318 It can be challenging for a local authority to identify and report on the full range of effects that an activity may have on each community well-being. For instance, some traditional activities, such as water management and building roads, are often identified by local authorities as having a positive effect on community well-being. A general statement of this type does not adequately identify the effects

⁶ Schedule 10, clause 15(e) and (f).

⁷ *Matters arising from the 2006-16 Long-Term Council Community Plans*, parliamentary paper B.29[07c], ISBN 0-478-18187-6.

that such infrastructure could have on social cohesion, environmental well-being, or biodiversity.

What local authorities did

- 1.319 Overall, we observed little change in the information presented in 2005/06 annual reports compared to the previous year. About 80% of local authorities did not develop their disclosures any further during 2005/06. More than 50% of local authorities did not meet the requirements of clause 15(d) in either year that the requirement has been in place. Those local authorities presenting the most comprehensive disclosures were the same as in 2004/05, and even these best performers showed no evidence of continuing to improve their disclosures.
- 1.320 There was evidence of improvement to the disclosures of about 20% of local authorities. However, although efforts were made to increase disclosure and make improvements, this did not always result in the local authority effectively identifying the effects of activities on the well-being of the community.
- 1.321 Most local authorities provided information on the nature of their activities, why they did those activities (that is, they identified the activities' contribution to one or more community outcomes), how the activities were measured, and their progress towards the objective.
- 1.322 Many local authorities provided a discussion on the effects of their activities. However, many of the effects identified appear to be more a repetition of a local authority's aim or objective for that activity rather than an identified effect. Local authorities need to distinguish between an identified effect of an activity, as required by the Act, and the effect they intend that activity to have.
- 1.323 Some local authorities provided general statements about the effects of their activity. In our opinion, a statement to the effect that "this activity contributes to economic and social well-being through protecting the safety of residents" is describing an intended effect rather than an identified effect. Other examples of this confusion were instances where local authorities identified that their water management systems did not support some environmental outcomes, or that some roading activity can have detrimental effects on the social cohesion of a community.
- 1.324 Consistent with reporting against its LTCCP, which requires a local authority to outline any significant negative effects of its activities, a small number of local authorities have identified only negative effects in their subsequent annual report. Although negative effects were thoroughly discussed in some of the reports, we consider that none of the reports that identified only the negative effects met the requirements of the Act. Under the Act, an annual report is required to report any identified effects, negative or positive.

- 1.325 A few local authorities identified both negative and positive effects. These were presented as either written commentaries or in a table format.
- 1.326 A small number of local authorities provided information on the identified effect each activity had on each community well-being.
- 1.327 Other local authorities provided a report on each community well-being, outlining the authority's contribution and the effect of its activity on these areas.
- 1.328 A few local authorities noted that they were still developing the links between the outcomes, rationale, activity, performance measure, targets, and identification of effects. The number of local authorities in this position in 2005/06 has reduced compared to 2004/05. This confirms that there has been some progress in this area as a result of preparing the 2006-16 LTCCPs. Most of those local authorities that have yet to make any disclosures to meet the requirements of clause 15(d) have indicated that they intend to do so in 2006/07. However, some have yet to acknowledge and produce information to meet the new requirement.

Comment on identification of effects

- 1.329 We noted in our report in 2006⁸ that local authorities needed to ensure that their identification of the effects of activities was more than simply reporting on the activity of the local authority. As there has been little change to disclosures, the same comment continues to apply.
- 1.330 Enhancements that could be made to meet the requirements to identify the effects of activities include:
- moving from a restatement of local authority aims to identification of effects;
 - moving towards specific consideration and analysis of the effects of activities rather than generalised statements; and
 - ensuring that the performance management framework is an integrated package that links community outcomes and the rationale for local authority activity to performance measures, targets, and levels of service. With such a linked framework, it is easier for local authorities to report on progress towards community outcomes (as required by clause 1(g) of Schedule 10) and the identified effects of activities (as required by clause 15(d) of Schedule 10).

Conclusion

- 1.331 Overall, most local authorities provided clearly accessible information about what the authority did, how the community outcome was enhanced, why it carried out the activity, and how it measured performance. While this meets accountability requirements for the clear reporting of local authority activities back to the community, further work is required in clearly reporting the identified effects of those activities.

Statement of acquisition and replacement of assets

What is required

- 1.332 The Act, through the LTCCP and the annual plan, creates the framework against which the annual report discloses actual results. This includes how assets will be maintained, replaced, and renewed, and how costs will be met.⁹
- 1.333 Significant asset acquisitions and replacements are noted in planning financial forecasts, and are disclosed in the budget sections of the LTCCP.
- 1.334 The annual report must include the information listed in Figure 1.4.

What local authorities did

- 1.335 Consistent with our observations on the requirements of clause 15(d), we noted little change to the information presented in 2005/06 to meet the requirements of clause 15(f) compared to 2004/05. Improvement was evident in fewer than 15% of local authorities. Improvements ranged from including some asset acquisition information to explaining variances against budgeted acquisitions and/or explaining the rationale for acquisition and replacement decisions.
- 1.336 Some local authorities reported significant variations between the LTCCP and the actual asset programme. Few provided information on the reasons for these variations.
- 1.337 Those that did provide information about, and reasons for, the variations did so either as notes to the financial statements or, more generally, in the Statement of Service Performance as part of reporting on the group of activities.
- 1.338 In some cases, major variations were noted between the mayor's/chairperson's or chief executive's report, and the financial statements and the Statement of Service Performance.
- 1.339 A small number of local authorities provided a list of all assets acquired and disposed of (with reasons) as a separate section in the annual report. Where the information and explanations were clear and thorough, this provided a snapshot of all local authority acquisitions and replacement of assets.
- 1.340 We are concerned that a small number of local authorities presented asset information to a lesser standard in 2005/06 compared to the previous year.

Comment on statements about significant asset acquisition and replacement

- 1.341 A significant number of local authorities do not yet address the requirements of clause 15(f) in a clear manner. In addition, up to half are inadequate. This is usually because of a lack of explanation of the reasons for the acquisition, replacement, or variation.

⁹ Schedule 10, clause 2(1)(d).

- 1.342 We remain concerned about this finding. Asset acquisition and replacement are important to sustaining and developing services. Most local authority plans – including the LTCCP – centre on sustainably delivering desired levels of service. Identifying an appropriate asset development programme that incorporates acquisition and replacement is generally central to demonstrating sustainability of services. Without this information, an important aspect of accountability is missing, and information useful to the reader is not available.
- 1.343 We consider that providing high-level information on significant asset decisions (for example, advising of either delay or bringing forward of major asset acquisitions) in the mayor's or chairperson's report is useful for the public. However, the mayor's or chairperson's report is not subject to audit, and cannot include all the information required by the Act.
- 1.344 Where variations were reported in the financial statements section, they were often aggregated. In our view, this does not provide the most accessible information to the community about specific actions carried out by the local authority for significant assets.
- 1.345 As we noted in previous years, putting financial and asset information in the Statement of Service Performance has the advantage of keeping information on one topic within each group of activities. However, unless the variation and its reason are also clearly stated in that section, it is not easy to determine the difference between the LTCCP or annual plan projections and the actual expenditure or acquisitions carried out during the year.

Conclusion

- 1.346 Overall, despite the requirement of clause 15(f) being in place for three years, there remains significant scope for improvement. As noted previously, we will continue to work with our auditors to help the sector become more aware of the clause 15 requirements, and to help them improve their reporting of performance.
- 1.347 However, if we do not observe improvements over time, we will be obliged to consider what effect failure to observe these requirements should have on our audit opinions.

1.4 Non-profit council-controlled organisations

- 1.401 The Local Government Act 2002 (the Act) extended the accountability regime for entities associated with local authorities to include non-profit entities such as charitable trusts and incorporated societies. Formerly, only local authority trading enterprises were covered. This change affected the accountability regime for about 100 trusts and incorporated societies associated with local authorities. These entities, and the former local authority trading enterprises, became council-controlled organisations (CCOs) under the Act.
- 1.402 Since 1 July 2003, the non-profit entities have had to comply with the accountability and reporting requirements for CCOs under the Act. These requirements are generally more complex than those that applied under their trust deeds or rules.
- 1.403 The Auditor-General is currently the auditor of 118 council-controlled trading organisations and 93 non-profit CCOs. The Auditor-General also audits another 80 organisations that are related to local authorities but are not CCOs. This group includes entities that have been exempted from being CCOs under section 7 of the Act, and local government-related entities that are controlled entities under section 5 of the Public Audit Act 2001. Exemptions are discussed in paragraphs 1.417 to 1.426. The control test in the Public Audit Act 2001 is discussed in Part 2.2 of this report.
- 1.404 This article comments on issues and developments in the non-profit CCO sector for the year ended 30 June 2006, including:
- reporting on performance;
 - the number of CCOs that local authorities have exempted from the accountability regime in the Act;
 - audit of exempted organisations;
 - making the statement of intent (SOI) and annual report publicly available; and
 - the implications of the Charities Act 2005.

Reporting on performance of council-controlled organisations

- 1.405 An important part of the accountability framework for CCOs in the Act is the requirement to prepare an SOI at the start of the reporting period. The purpose of the SOI is to provide:
- a public statement of the activities and intentions of the CCO for the year, and the objectives to which those activities will contribute;

- an opportunity for the local authority to influence the direction of the entity; and
 - a basis for the entity's governing body to be accountable to the local authority for the entity's performance.
- 1.406 A CCO must include information in its annual report about its achievements against that SOI, including:
- a comparison of the performance of the entity with the SOI; and
 - an explanation of any material variances between that performance and the SOI.
- 1.407 As well as auditing the financial statements of a CCO, we are required to report on the performance targets and other measures by which performance was judged against the entity's objectives. In other words, the audit opinion must cover the entity's report on its performance, measured against its SOI (performance information).
- 1.408 All CCOs had to have an SOI in place for the year beginning 1 July 2004. They were also required to include performance information in their annual reports for the year ended 30 June 2005, unless the local authority had exempted the CCO under section 7 of the Act (exemptions are discussed in paragraphs 1.417 to 1.426).
- 1.409 We monitored compliance with these requirements during 2004/05 and 2005/06. Although many CCOs met the new requirements, several did not include performance information in their annual reports because they did not have an SOI in place at the start of the period. In some cases, the CCOs were inactive (for example, they were name protection companies). While there may be little point in such entities producing an SOI, the requirement applies unless the local authority has exempted the CCO.
- 1.410 We were surprised that local authorities had not used the power in section 7 of the Act more actively to exempt small non-profit CCOs from the accountability regime. We have asked our appointed auditors to ensure that local authorities are aware of this option.
- 1.411 For the years ended 30 June 2005 and 30 June 2006, we issued qualified audit opinions for several active CCOs for failing to include performance information in their annual reports. This was because they did not have an SOI in place to report against. We were particularly concerned where active CCOs did not have an SOI in place for the following period either.
- 1.412 Part 1.5 of this report, which covers non-standard audit reports issued during the 2006 calendar year, includes qualified audit reports for CCOs for not reporting performance information against an SOI. It is disappointing to note that, in some

instances, a CCO has been qualified for the same reason for two consecutive years. The Appendix lists the names of the entities that received a qualified audit report for not reporting performance information.

- 1.413 We did not qualify the audit report of inactive CCOs (such as name protection companies or dormant companies that were not engaged in any activity during the year),¹ provided the entity had disclosed the breach of law in its financial statements.
- 1.414 A small number of CCOs were set up part way through the financial year, and did not prepare SOIs. They therefore did not include performance information in their annual reports.
- 1.415 We had previously suggested to the Department of Internal Affairs that the Act be amended to provide that:
- a CCO set up or acquired in the first six months of a financial year should prepare an SOI; but
 - a CCO set up or acquired in the latter six months of a financial year should not have to prepare an SOI for that period.
- 1.416 We are pleased to note that the Act was amended in 2006 to incorporate our suggestion.²

Exempted organisations

- 1.417 Section 7 of the Act provides for entities to be exempted from the requirements for CCOs. There are two ways in which a CCO may be exempted:
- The Governor-General, on a recommendation from the Minister of Local Government, can exempt a CCO that is already subject to appropriate accountability under an Act other than the Local Government Act 2002. The Minister must be satisfied that the entity's accountability under the other Act is of a similar nature and effect to that required under the Local Government Act 2002.³
 - A local authority can exempt small non-profit CCOs under section 7(3). The Act does not define "small", but a local authority cannot exempt a council-controlled trading organisation. When exempting a non-profit CCO, the local authority must consider the nature and scope of the activities provided by the CCO, and the costs and benefits of an exemption to the local authority, the CCO, and the community.

1 See article 1.5 for an explanation of a qualified opinion.

2 Local Government Act 2002, section 64(6).

3 The Otago Museum Trust Board, the Canterbury Museum Trust Board, and the Museum of Transport and Technology Trust Board have been exempted by this procedure.

- 1.418 A local authority may revoke an exemption at any time, and must review any exemption within three years of granting it and then at least every three years.
- 1.419 The power for local authorities to exempt small CCOs from the requirements was included in the Act to address concerns raised about compliance costs for small non-profit entities. Once exempted, an entity is no longer a CCO (for the period of the exemption) and is not subject to any of the accountability requirements of the Act.
- 1.420 However, an exemption under the Act does not affect accountability requirements in other legislation, such as the Incorporated Societies Act 1908 or the Charities Act 2005, or provisions in an entity's own trust deed or rules.
- 1.421 Several local authorities have inactive companies that meet the definition of a CCO. Examples of "inactive" companies are companies formed for name protection purposes or companies that formerly carried out trading activities but are retained for tax or other reasons.
- 1.422 Where a former trading company is inactive, it is unlikely to be a council-controlled trading organisation and may qualify for exemption by the local authority under section 7(3) of the Act.
- 1.423 We asked our appointed auditors to report to us, as part of the 2005/06 audits, on the extent to which local authorities have used the exemption power in section 7(3) since the enactment of the Act.
- 1.424 Our findings are:
- As at 30 June 2006, local authorities had exempted 74 entities under section 7(3).
 - Most of the exemptions had been given recently, in 2005 or 2006.
 - Thirty-two of the 85 local authorities have used the exemption power.
 - Fifty-three local authorities have not used the exemption power. Several of those local authorities do not have CCOs.
 - The exempt entities are a mixture of small trusts and inactive companies.
 - Forty-four trusts, 25 companies, and five other entities have been exempted.
 - City councils tend to have the most CCOs and have therefore made the greatest use of the exemption power, with the Auckland City Council and the Manukau City Council exempting 10 and nine entities respectively.

Audit of exempted organisations

- 1.425 An exemption under the Act does not necessarily affect audit requirements. Once exempted under section 7 of the Act, an organisation is not subject to any of the requirements in the Act, including the requirement to prepare financial statements for audit by the Auditor-General. However, an entity such as a trust or incorporated society is likely to be required to prepare financial statements and have them audited under its trust deed or rules. Similarly, the directors of an inactive company that is exempted from the CCO accountability requirements still need to meet the requirements of the Financial Reporting Act 1993⁴ and the Companies Act 1993 concerning financial statements and audit. An exemption given by a local authority from the accountability regime for CCOs under the Act does not negate such requirements, as the exemption is for the purposes of that Act only.
- 1.426 The Auditor-General usually remains the auditor of exempted organisations because, under the Public Audit Act 2001, the Auditor-General must audit the financial statements and other information that a public entity is required to have audited. Therefore, where an exempted organisation is a public entity by virtue of the control test in section 5 of the Public Audit Act 2001 (see article 2.2 of this report), the Auditor-General will continue to be the exempted organisation's auditor.

Making the statement of intent and annual report publicly available

- 1.427 A CCO is required to:
- make its completed SOI available to the public within one month after the date it is adopted or delivered to the shareholders; and
 - make its annual report available to the public within three months of the end of the financial year.
- 1.428 Where a CCO is required to make a document available to the public, it must take reasonable steps to:
- ensure that the document or a copy of the document is accessible to the general public; and
 - publicise both the fact that the document is available and the manner in which copies of the document may be obtained.⁵

⁴ The Financial Reporting Act 1993 has been amended to provide that an inactive company need not prepare financial statements, but this amendment is not yet in force.

⁵ Local Government Act 2002, section 5(3).

- 1.429 There are varying degrees of compliance with these requirements among CCOs. We have therefore asked our appointed auditors, as part of the audit for 2006/07, to check that CCOs are meeting these requirements.

Implications of the Charities Act 2005

- 1.430 Many non-profit CCOs are incorporated charitable trusts or incorporated societies with charitable purposes. They are subject to the Charities Act 2005, which was enacted in April 2005 with different sections coming into force on different dates. The broad intention of the Charities Act 2005 is to enhance the accountability of charities.
- 1.431 The Charities Act 2005 established a new Crown entity, the Charities Commission, which is responsible for running a registration, reporting, and monitoring system for charities. Those charities that wish to retain or gain income tax-exempt status are required to register with the Commission.
- 1.432 Existing organisations must register by 1 July 2008 to maintain any existing income tax and gift duty exemptions.
- 1.433 Once registered, charities must submit an annual return to the Commission within six months of balance date.
- 1.434 The content of the annual return is determined by the Charities (Fees, Forms, and Other Matters) Regulations 2006 (in force from 1 November 2006). The annual return must include the charity's financial statements. On receiving the annual return, the Commission is required to examine the entity's activities to determine that the entity continues to qualify for registration as a charitable entity.
- 1.435 These Charities Act requirements will add to the legislative compliance obligations for CCOs (and exempt CCOs) that wish to register as charitable entities.

1.5 Non-standard audit reports issued

- 1.501 In this article, we discuss the non-standard audit reports issued on the annual financial reports of entities that are within the local government portfolio.¹
- 1.502 Our discussion covers non-standard audit reports issued during the 2006 calendar year.

Why are we reporting this information?

- 1.503 An audit report is addressed to the readers of an entity's financial report. However, all public entities are ultimately accountable to Parliament, including for their use of public money and for their use of any statutory powers or other authority given to them by Parliament. We therefore consider it important to draw Parliament's attention to the range of matters that give rise to non-standard audit reports.
- 1.504 In each case, the issues underlying a non-standard audit report are drawn to the attention of the entity and discussed with its governing body.

What is a non-standard audit report?

- 1.505 A non-standard audit report² is one that contains:
- a qualified opinion; and/or
 - an explanatory paragraph.
- 1.506 The auditor expresses a qualified opinion, as opposed to an unqualified opinion (which is issued when the auditor is satisfied, in all material respects, with the matters outlined in the financial report), because of:
- a disagreement between the auditor and the entity about the treatment or disclosure of a matter in the financial report; or
 - a limitation in scope because the auditor has been unable to obtain enough evidence to support, and accordingly is unable to express, an opinion on the financial report or a part of the financial report.
- 1.507 There are three types of qualified opinions:
- an "adverse" opinion (see paragraph 1.511);
 - a "disclaimer of opinion" (see paragraph 1.513); and
 - an "except-for" opinion (see paragraph 1.514).
- 1.508 The auditor will include an explanatory paragraph (see paragraph 1.516) in the audit report to emphasise a matter such as:
- a breach of law; or
 - a fundamental uncertainty.

1 We report separately on entities that are part of the Crown Reporting Entity.

2 A non-standard audit report is issued in accordance with the Institute of Chartered Accountants of New Zealand Auditing Standard No.702: *The Audit Report on an Attest Audit*.

1.509 Auditors are required to ensure that an explanatory paragraph is included in the audit report in such a way that it cannot be mistaken for a qualified opinion.

1.510 Figure 1.6 outlines the decisions to be made in considering the appropriate form of audit report.

Adverse opinion

1.511 An adverse opinion is expressed when there is disagreement between the auditor and the entity about the treatment or disclosure of a matter in the financial report and, in the auditor's judgement, the treatment or disclosure is so material or pervasive that the report is seriously misleading.

1.512 Expression of an adverse opinion represents the most serious type of non-standard audit report.

Disclaimer of opinion

1.513 A disclaimer of opinion is expressed when the possible effect of a limitation in the scope of the auditor's examination is so material or pervasive that the auditor has not been able to obtain enough evidence to support, and accordingly is unable to express, an opinion on the financial report.

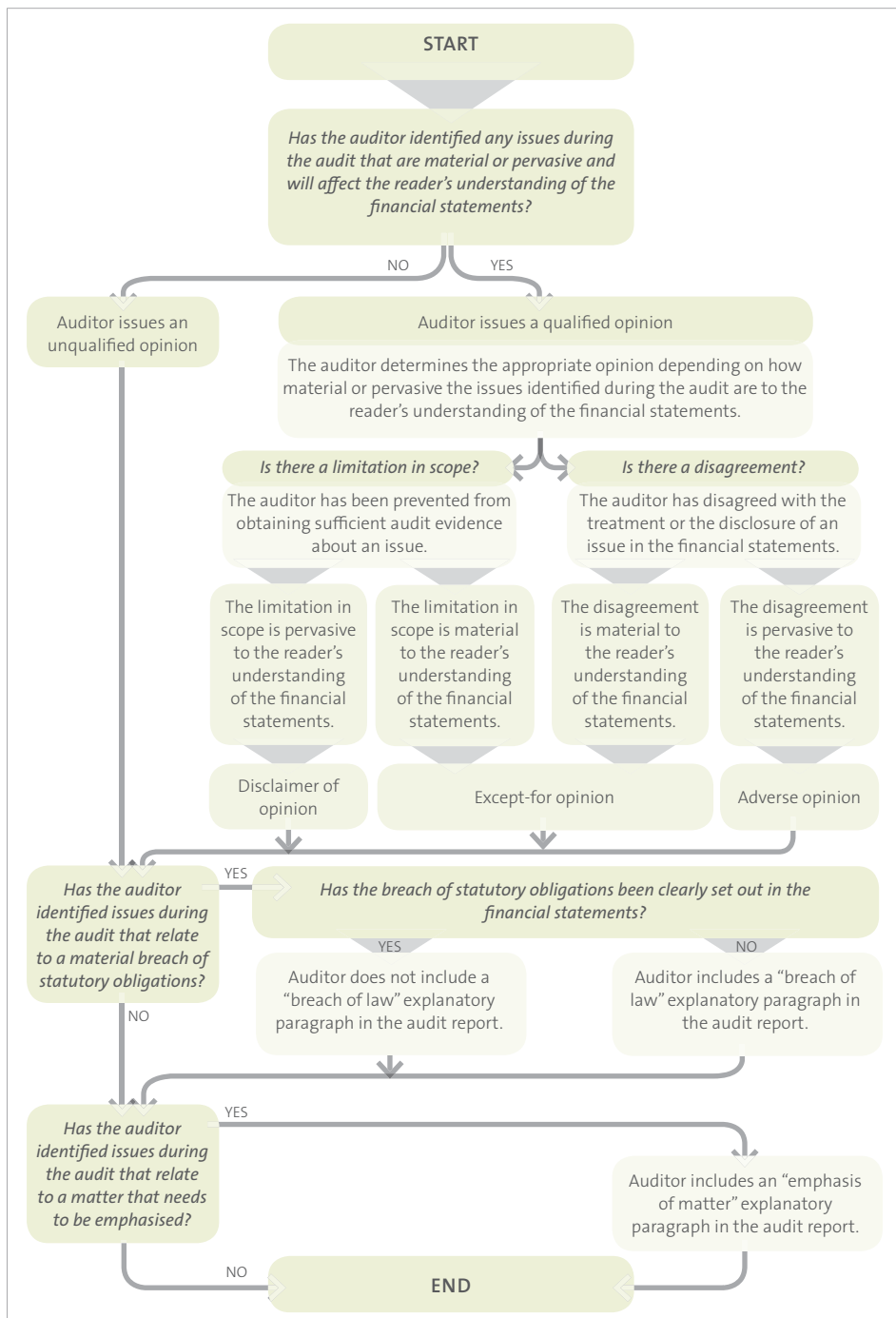
Except-for opinion

1.514 An except-for opinion is expressed when the auditor concludes that either:

- the possible effect of a limitation on the scope of the auditor's examination is, or may be, material, but is not so significant as to require a disclaimer of opinion – in which case the opinion is qualified by using the words "except for the effects of any adjustments that might have been found necessary" had the limitation not affected the evidence available to the auditor; or
- the effect of the treatment or disclosure of a matter with which the auditor disagrees is, or may be, material, but is not, in the auditor's judgement, so significant as to require an adverse opinion – in which case the opinion is qualified by using the words "except for the effects of" the matter giving rise to the disagreement.

1.515 An except-for opinion can be expressed when the auditor concludes that a breach of statutory obligations has occurred and that the breach is material to the reader's understanding of the financial report. An example of this is where a local authority subsidiary has breached the requirements of the Local Government Act 2002 because it has not prepared a statement of intent and it is therefore unable to prepare performance information that reflects its achievements measured against performance targets.

Figure 1.6
Audit report options



Explanatory paragraph

- 1.516 In certain circumstances, it may be appropriate for the auditor to include in the audit report additional comment, by way of an explanatory paragraph, to emphasise a matter that is regarded as relevant to a reader's proper understanding of an entity's financial report.
- 1.517 For example, it could be relevant to draw attention to an entity having breached its statutory obligations for certain matters where that breach may affect or influence a reader's understanding of the entity. In this situation, the audit report would normally draw attention to the breach only when the entity has not clearly set out the breach in its financial report.

Summary of the non-standard audit reports issued

- 1.518 Figure 1.7 summarises the non-standard audit reports issued during the 2006 calendar year for entities within the local government portfolio. The Appendix provides the details of those audit reports.

Figure 1.7
Summary of the non-standard audit reports issued

Name of entity	Adverse opinions	Disclaimer of opinion	Except-for opinions	Explanatory paragraphs
Hutt City Council and group			X	
Museum Trust Boards				
Southland Museum and Art Gallery Trust Board Incorporated	X			
The Canterbury Museum Trust Board	X			
Otago Museum Trust Board	X			
Council-controlled organisations				
Advance Whangarei Limited			X	
Hawkes Bay Incorporated			X	
Tourism Dunedin Trust			X	
Waitaki District Health Services Trust			X	
Southern Rural Fire Authority			X	
Southland Flood Relief Fund			X	
Invercargill Community Recreation and Sports Trust			X	
Ashburton Stadium Complex Trust			X	
North Shore Domain and North Harbour Stadium Trust Board			X	
MacKenzie Holdings Limited			X	
Waste Disposal Services			X	
Transwaste Canterbury Limited and Group			X	
Tauranga Art Gallery Trust			X	
Waitemata Infrastructure Limited			X	
Richmond Pool Charitable Trust			X	
Carparking Joint Venture			X	
Papakura District Enterprise Board				X
Data Capture Systems Limited				X
Taupo District Economic Development Advisory Board				X
Fish and Game Councils				
North Canterbury Fish & Game Council			X	
Fish and Game New Zealand – West Coast Region			X	

Figure 1.7 summarises the non-standard audit reports issued during the period 1 January 2006 to 31 December 2006 for entities within the local government portfolio. The Appendix provides the details of those audit reports.

Name of entity	Adverse opinions	Disclaimer of opinion	Except-for opinions	Explanatory paragraphs
Administering bodies				
Charleston Goldfields Hall Board		X		
Nelson Creek Recreation Reserve Board			X	
Mapiu Domain Board			X	
Lower Kokatahi Hall				X
Airport companies				
Whangarei District Airport			X	
Hawkes Bay Airport Authority				X
Taupo Airport Authority				X
Cemetery Trustees				
Mangere Cemetery Board				X
Pihama Cemetery Trustees				X
Warea Cemetery Trustees				X
Sinking Fund Commissioners				
Rotorua District Council Sinking Funds Commissioner				X
Whakatane District Council Fund Commissioners				X
Bay of Plenty Regional Council Sinking Fund Commissioners				X
Far North District Council Sinking Fund Commissioners				X
Licensing Trusts				
Otara Licensing Trust				X
Invercargill Licensing Trust Sports Foundation				X
Other local government entities				
Montford Trimble Foundation			X	
Hawke's Bay Cultural Trust (Incorporated)	X			
Wairarapa Cultural Trust	X			
Southland Regional Heritage Committee			X	
Nga Tapuwae Community Facilities Trust				X
Cooks Gardens Trust Board				X

Figure 1.7 summarises the non-standard audit reports issued during the period 1 January 2006 to 31 December 2006 for entities within the local government portfolio. The Appendix provides the details of those audit reports.

Part 2

Other issues arising during 2005/06

2.1 The transition to New Zealand equivalents to International Financial Reporting Standards

2.101 In this article, we provide an update on the progress made by the local government sector towards the transition to accounting and reporting in accordance with the New Zealand equivalents to International Financial Reporting Standards (IFRS¹) – NZ IFRS.²

Background

2.102 In December 2002, the Accounting Standards Review Board (ASRB) announced its decision that New Zealand entities producing general purpose financial statements would be required to apply new standards, based on IFRS, for reporting periods beginning on or after 1 January 2007. Entities were given the option to apply the new standards from reporting periods beginning on or after 1 January 2005.

2.103 We expect that all local authorities will adopt these standards for their reporting period beginning 1 July 2006. Our expectation is based on the fact that all local authorities, in their 2006-16 Long-Term Council Community Plans (LTCCPs), included prospective financial information prepared in accordance with NZ IFRS for the 1 July 2006 to 30 June 2007 financial year. It is also based on the fact that prospective financial information was required to be prepared in accordance with the accounting policies the local authorities expect to apply to their actual financial statements for that period.

2.104 Local authorities' first set of NZ IFRS-compliant financial statements (for the year ending 30 June 2007) are required to include comparative figures presented on the same basis of accounting. Accordingly, the comparative figures for the year ended 30 June 2006 and an opening balance sheet at 1 July 2005 need to be restated in accordance with NZ IFRS.

2.105 Where a local authority has subsidiary (or associate) entities, we expect that most, if not all, of these entities will adopt NZ IFRS at the same time as their parent local authority. This expectation arises because NZ IFRS requires the consolidated financial statements of a group to be prepared using uniform accounting policies.

1 The term IFRS is used to refer to International Accounting Standards Board (IASB) standards. The standards comprise International Accounting Standards (IAS) inherited by the IASB from its predecessor body, the International Accounting Standards Committee (IASC), and the interpretations of those standards; and International Financial Reporting Standards (IFRS), the new standards being issued by the IASB, and the interpretations of those standards. IFRS are written for application by large profit-oriented entities.

2 NZ IFRS will comprise New Zealand International Accounting Standards (NZ IAS), and the interpretations of those standards; New Zealand International Financial Reporting Standards (NZ IFRS), and the interpretations of those standards; and New Zealand Financial Reporting Standards (FRS), where there is no equivalent IFRS.

- 2.106 If a local authority's subsidiary (or associate) entities adopt NZ IFRS at a date different from their parent local authority, those entities will have to maintain two sets of information. One set would be in accordance with the policies adopted for their own reporting, while the other would be in accordance with the reporting requirements of their parent (for consolidation purposes).

The new standards and their expected effects on the local government sector

- 2.107 NZ IFRS, since first being approved by the ASRB on 24 November 2004, have been undergoing changes. These changes are largely driven by the work programme of the International Accounting Standards Board. Such changes will continue to be made in the foreseeable future. When changes are made, there is normally a reasonable lead time before the changes must be applied. However, entities can apply the changes before they become mandatory.
- 2.108 We therefore expect that NZ IFRS as approved at 31 December 2006 will not undergo changes that are mandatory for local authorities to apply to their financial statements for the year ending 30 June 2007. This means that there is enough certainty to enable the sector to carry out much of the work in the first half of 2007 that needs to be done to successfully make the transition to NZ IFRS.
- 2.109 Some local authorities have completed preliminary NZ IFRS opening balance sheets, but we are concerned that there are many more that may not have carried out much work toward the transition.
- 2.110 Of those local authorities that have engaged us to audit their preliminary NZ IFRS opening balance sheets, the most significant change, as we anticipated, is accounting for financial instruments. The types of financial instruments having the greatest effect on preliminary NZ IFRS opening balance sheets are:
- derivative financial instruments, such as interest rate swaps;
 - community loans at below market interest rates and/or where there is uncertainty regarding repayment; and
 - financial guarantees of community-based entities.
- 2.111 Interest rate swaps are used by a number of local authorities to reduce exposure to interest rate variability on borrowings. These derivative financial instruments are required to be accounted for and recorded "on balance sheet" under NZ IFRS. Under current generally accepted accounting practice (GAAP), these items have not been recorded "on balance sheet". Rather, information about the items has been disclosed in notes to the financial statements. The accounting treatment under NZ IFRS will therefore recognise these as either assets or liabilities (depending on the difference between the swapped interest rate and the underlying interest rate) for the first time.

- 2.112 Community loans (such as loans to sports clubs and sports venues) are often provided to entities at below market interest rates or interest free, and sometimes the repayment dates and the ability of the entities to repay such loans can be uncertain. Under NZ IFRS, such loans are required to be accounted for and recorded at their fair value, which takes into account when loans are likely to be repaid and the time value of money. Under current GAAP, community loans are recorded at the amounts ultimately expected to be received in settlement of the loan (excluding interest), which is normally the amount that was lent to the entity, and takes no account of the time value of money. The accounting treatment under NZ IFRS will mean lower asset values for community loans because they are recorded at fair value.
- 2.113 Financial guarantees are usually provided by local authorities to community-based entities so that those entities can obtain the funding they require to operate. Under NZ IFRS, such guarantees are required to be accounted for at fair value. Under current GAAP, financial guarantees have not been recorded “on balance sheet”. Rather, they are disclosed as contingent liabilities in the notes to the financial statements. The accounting treatment under NZ IFRS will therefore recognise liabilities for financial guarantees for the first time.
- 2.114 Issues such as community loans at below market interest rates (or interest free) and guarantees of community-based entities by local authorities have not been specifically considered by international standard-setters when developing and approving financial reporting standards relating to financial instruments. Given the significance of such financial instruments, particularly in the local government sector, it would have been helpful if the standard-setter³ in New Zealand had considered these issues and provided guidance material for public benefit entities.⁴ Such guidance material could have assisted local authorities determine the fair value of such financial instruments, given they are not commercial arrangements.
- 2.115 We consider it essential for the credibility of financial reporting standards applying to the public sector that standard-setters:
- specifically consider such public sector issues;
 - make appropriate changes to the international standards (which are written to be applied by large profit-oriented entities) so that the public sector is able to apply them; and
 - develop guidance to assist the public sector to apply the standards.

³ The Financial Reporting Standards Board of the Institute of Chartered Accountants.

⁴ Public benefit entities are entities whose primary objective is to provide goods or services for a community or social benefit, and where any equity has been provided with a view to supporting that primary objective rather than for a financial return to equity holders. They include most public sector entities.

- 2.116 Other areas where NZ IFRS is resulting in changes to preliminary NZ IFRS opening balance sheets include:
- the amounts at which deferred tax is recorded;
 - the amounts at which some physical assets – such as investment properties and biological assets – are recorded; and
 - the first-time recognition of accumulating, non-vesting employee benefits – such as sick leave.
- 2.117 The new standards distinguish two different types of entities: profit-oriented entities and public benefit entities. The standards contain some different accounting requirements for each type of entity. This means that determining whether an entity is a profit-oriented entity or a public benefit entity is very important. A wrong judgement about the type of entity may result in inappropriate accounting requirements being applied.
- 2.118 In the local government sector, there are a number of sub-sectors that may comprise entities that are both profit-oriented and for public benefit. It is such sub-sectors where making the appropriate determination about the type of entity requires careful judgement. Examples of such sub-sectors include regional airports and entities set up to operate stadiums. We understand that a number of these entities have yet to make this determination, which is of concern at this late stage of the transition to NZ IFRS.

The sector's response to the transition to the New Zealand equivalents to International Financial Reporting Standards

- 2.119 The Society of Local Government Managers (SOLGM) has provided guidance to the sector (such as through seminars) and a forum for the sector to share NZ IFRS information and experiences.
- 2.120 During 2006/07, the sector has been heavily geared toward publishing audited LTCCPs and, more recently, audited amendments to those plans. This has generally meant that resources that may otherwise have been available to work on the transition to NZ IFRS have not been available, particularly in the smaller local authorities.
- 2.121 Of those local authorities that have carried out the work to set up a preliminary NZ IFRS opening balance sheet, the general consensus is that there is a significant cost to the local government sector in making the transition to what is perceived as providing no benefit to the users of the financial statements.
- 2.122 We expected most local authorities to provide a reasonable level of detail about the effects of the transition to NZ IFRS in their annual reports for the year

ended 30 June 2006, even though such disclosure is largely voluntary.⁵ We were disappointed that only a few provided the level of detail we envisaged about the expected effects. The limited information disclosed reinforces our concerns about the lack of progress towards the transition made by many local authorities.

The practical application of new reporting standards to 2006-16 Long-Term Council Community Plans

- 2.123 In addition to considering recommended disclosures in their annual report, local authorities also needed to consider the effect of NZ IFRS within their LTCCPs. This section outlines our findings from the audit of these LTCCPs.

Background

- 2.124 To avoid the need to present financial information in their 2006 LTCCPs under two different sets of accounting standards, local authorities were expected to adopt NZ IFRS for the period beginning 1 July 2006, enabling all 10 years of the LTCCP to be prepared on the same basis.
- 2.125 As an organisation's first set of NZ IFRS financial statements for the year ending 30 June 2007 must include comparative figures prepared on the same basis, comparative financial information is required for the year ended 30 June 2006. This meant that local authorities had to prepare an opening NZ IFRS-compliant balance sheet as at 1 July 2005.

Implications for Long-Term Council Community Plans

- 2.126 All local authorities prepared their 2006-16 LTCCP with parent entity information only, and did not provide group information incorporating any subsidiary organisations. Consequently, many of the complexities likely to arise from applying the new standards did not affect the financial information in the LTCCP. Moreover, LTCCPs were prepared in accordance with Financial Reporting Standard 42: *Prospective Financial Statements*, which requires only the core financial statements (comprising balance sheet, income statement, and cash flow statement) to be included. The extensive additional disclosure requirements for annual reports were therefore not applicable.
- 2.127 To prepare the forecast financial statements for the LTCCP to comply with NZ IFRS, local authorities should ideally have considered and documented the changes arising from NZ IFRS and the effects of those changes on the local authority's financial information. The local authority should have prepared NZ IFRS-compliant

⁵ In April 2005, the ASRB approved Financial Reporting Standard 41: *Disclosing the Impact of Adopting New Zealand Equivalents to International Financial Reporting Standards* (FRS-41). FRS-41 requires disclosure in the annual report of issuers (as defined in section 4 of the Financial Reporting Act 1993) of information about planning for the transition to NZ IFRS, key differences in accounting policies that are expected to arise, and the estimated effects on the financial report of adopting NZ IFRS. Although most entities within the local government sector are not issuers as defined in section 4 of the Financial Reporting Act 1993, FRS-41 encourages other entities to also provide these disclosures.

accounting policies and implemented those policies when preparing the 1 July 2005 balance sheet. Using the opening balance sheet, local authorities needed to forecast the income statement for the year ended, and balance sheet as at, 30 June 2006. Local authorities should have considered the effects of any accounting policy changes in the financial projections for each of the 10 years covered by the LTCCP, starting with the financial year ended 30 June 2006.

- 2.128 In practice, the majority of medium- and small-sized local authorities had carried out limited or no formal work on considering the effects of NZ IFRS on the LTCCP. In contrast, a minority of local authorities, typically larger authorities, had completed substantial preparatory work on the transition to NZ IFRS. The relative lack of preparedness was not unexpected, because:
- The focus was on preparing the LTCCP, of which NZ IFRS was a reasonably small element.
 - For many local authorities, a cursory assessment indicated that the changes to the core financial statements resulting from NZ IFRS were not significant.
 - Some of the accounting implications of NZ IFRS were negated by assumptions about the future (such as the level of interest rates).
 - The changes arising from NZ IFRS, such as increased use of fair values, are accrual accounting issues. Although the changes may affect a local authority's revenue and expenditure and therefore surpluses, the adjustments are non-cash. Local authorities typically prepare their budgets on the basis of the funding required for their activities.
- 2.129 Giving due consideration to these reasons, we took a reasonably high-level approach to assessing whether the LTCCPs were NZ IFRS-compliant. We focused on material rather than absolute compliance. In particular, we considered whether the accounting policies materially complied with NZ IFRS and whether those policies had been materially fairly applied in the preparation of the financial information.
- 2.130 For example, NZ IFRS prescribes how the financial information is to be presented and described. Generally, the presentation of information did not follow the formats required by NZ IFRS. However, as we considered that this did not disadvantage the reader of the LTCCP, we did not request changes to be made.
- 2.131 In considering whether the financial forecasts were materially accurate, we considered the size of the difference between the appropriate approach under NZ IFRS and the approach actually taken. We also considered whether the appropriate approach would have potentially changed the local authority's funding decisions, meaning that it would change the levels of rating, borrowing, or other financing. As an example, there were instances where the local authority did not include

an estimate for the change in value of its forestry assets. Under NZ IFRS, the change in fair value of these assets needs to be included in the income statement. However, because it is a non-cash adjustment for most local authorities, this would not change any of the funding included in the LTCCP.

- 2.132 Eighty-four of the 85 local authorities amended their accounting policies so that they complied materially with NZ IFRS. One local authority did not amend its accounting policies, preparing all information under current GAAP.
- 2.133 Even where the policies were amended, they were not always applied in the financial forecasts. For example, changes in the value of investment properties or forestry were not always included.
- 2.134 In our view, because of the lack of preparation and formal consideration of NZ IFRS, local authorities relied heavily on our auditors to review and advise on NZ IFRS compliance as part of the LTCCP audit. In these cases, the auditor needed to evaluate the work that the local authority had completed, along with their own knowledge of the client, the local government sector, and the new standards to consider whether the application of NZ IFRS would result in materially different financial information in the LTCCP. In nearly all instances, the auditors considered that the information would be materially the same under NZ IFRS and current GAAP.
- 2.135 However, this was less than ideal and shifted the onus for compliance from the local authority, where it should have remained, to the auditor.
- 2.136 Although the LTCCP includes an audit opinion covering NZ IFRS compliance, the high threshold used in assessing the information means that further adjustments may be required to the opening balance sheet used as a basis for the forecasts. Consequently, a separate formal review of the opening balance sheet as at 1 July 2005 may still be required. Accounting policies may also need to be reassessed to ensure that they are more than the bare minimum.

The auditors' response to the transition to the New Zealand equivalents to International Financial Reporting Standards

- 2.137 The transition to NZ IFRS is a significant challenge for us and the auditors appointed on behalf of the Auditor-General.
- 2.138 We have carried out some of the audit work required for restated opening balance sheets and hope to do more of these audits as well as audits of comparative figures before 30 June 2007. We are concerned that there will be a significant

number of local authorities that will not have restated opening balance sheets and comparative figures available for us to audit before 30 June 2007. If that happens, it will increase the pressure on auditors to be able to sign audit opinions on the 2007 financial statements of all local authorities by 31 October 2007. Given that the period 1 July to 31 October is one of the busiest for auditors, some local authorities may not meet their statutory deadline for having audited financial statements if they have not considered NZ IFRS transition issues on a timely basis.

- 2.139 During 2006/07, we have put all our professional staff through “refresher” training on NZ IFRS (having carried out full training the year before), and we continue to develop resources for auditors to ensure that they are fully prepared to audit in an NZ IFRS environment. One such resource for both local authorities and auditors is the Audit New Zealand model financial statements under NZ IFRS, for Te Motu District Council, which is available at www.auditnz.govt.nz.
- 2.140 We continue to work with the sector to make the transition to NZ IFRS – for example, we participated in the SOLGM financial management seminar held toward the end of 2006, where we led a session about NZ IFRS. We will continue to support such initiatives where our resources allow.

Summary

- 2.141 The local government sector has made further progress during 2006/07 towards the implementation of NZ IFRS. However, we are concerned that many local authorities and other entities within the local government sector, particularly smaller entities, have not yet been able to give this matter much attention.
- 2.142 We expect that none of the changes to NZ IFRS as approved at 31 December 2006 will be mandatory for local authorities to apply to their financial statements for the year ending 30 June 2007. Therefore, there is enough certainty to enable the sector to carry out much of the work in the first half of 2007 that needs to be done to make the transition to NZ IFRS.
- 2.143 Accounting for financial instruments is expected to be the area of greatest challenge for the sector, although the effect on individual entities will vary depending on the nature of their assets, liabilities, and underlying transactions. We will continue to encourage the standard-setter in New Zealand to provide appropriate guidance to assist entities such as local authorities to implement standards that were not designed for them.
- 2.144 SOLGM has assisted the sector by providing a seminar for financial managers that included a session on NZ IFRS. However, the sector has mainly been focused during 2006/07 on preparing the 2006-16 LTCCPs. We will continue to support the sector with the transition to NZ IFRS as our resources allow.

- 2.145 There is an emerging perception in the local government sector that the transition to NZ IFRS results in reasonably significant costs with no corresponding benefits.
- 2.146 The transition remains a significant challenge for us. There is additional audit work required, particularly for restated opening balance sheets and comparative figures, and it is increasingly being pushed into shorter time frames. We are becoming increasingly concerned that there will be some local authorities that may not meet the statutory deadline of 31 October 2007 for having audited financial statements for the year ending 30 June 2007 prepared in accordance with NZ IFRS.
- 2.147 We will continue to work towards our primary objective of supporting the change to NZ IFRS at least cost, and with minimum fuss, in a constructive, co-operative manner.

2.2 Trusts controlled by local authorities – effect of the Public Audit Act 2001

- 2.201 The Public Audit Act 2001 resulted in a clearer definition of the Auditor-General's mandate. The Auditor-General is the auditor of every public entity, and of any entity controlled by one or more public entities under the test for "control" contained in the Public Audit Act (the control test).¹
- 2.202 The term "public entity" includes a council-controlled organisation as defined in the Local Government Act 2002 (the Act). The definition of "council-controlled organisation" (CCO) in the Act is slightly different to the definition of a controlled public entity in the Public Audit Act.²
- 2.203 This means that about 150 entities not formerly audited by the Auditor-General have become public entities because of the definition of CCO in the Act or the control test in Public Audit Act.
- 2.204 The application of the definition of CCO has generally been straightforward and has not been controversial. However, the application of the control test under the Public Audit Act has caused concerns for some trusts associated with local authorities that have not previously been subject to public audit.
- 2.205 In this article, we highlight some issues that have arisen in applying the Public Audit Act's control test in the local government sector. A small number of trusts have not yet accepted that they are public entities subject to the Auditor-General's mandate. We consider it important to advise Parliament that we are not auditing a small number of trusts that we consider should be subject to public audit.

The control test

- 2.206 Under section 5 of the Public Audit Act, the Auditor-General is the auditor of every public entity and of every entity that is controlled by one or more public entities. Both local authorities and CCOs are public entities under the Public Audit Act, so the Auditor-General is the auditor of any entity controlled by one or more local authorities or CCOs.
- 2.207 The Public Audit Act uses both legal and accounting definitions of control. Section 5(2) says that an entity is controlled by one or more other entities if:
- (a) *the entity is a subsidiary of any of those other entities; or*
 - (b) *the other entity or entities together control the entity within the meaning of any relevant approved financial reporting standard; or*
 - (c) *the other entity or entities can together control directly or indirectly the composition of the board of the entity within the meaning of sections 7 and*

¹ There is a detailed explanation of the control test on our website www.oag.govt.nz.

² The definition of CCO is also wider than the definition of a local authority trading enterprise under the Local Government Act 1974, as it includes both profit and non-profit entities.

8 of the Companies Act 1993 (which, for the purposes of this paragraph, are to be read with all necessary modifications).

- 2.208 The two legal limbs of the control test in paragraphs (a) and (c) above are reasonably straightforward. The definition in paragraph (a) applies where a public entity owns a majority of shares of an incorporated subsidiary and/or has the right to appoint a majority of directors. The definition in paragraph (c) applies where one or more public entities have the right, directly or indirectly, to appoint a majority of the governing body of an entity (whether incorporated or not).
- 2.209 Analysis of control under the accounting test in paragraph (b) is often more difficult. This article focuses on some of the issues that have arisen in applying the accounting test for control.

Control under the accounting test

- 2.210 The relevant approved financial reporting standard, for the purpose of the control test, is Financial Reporting Standard 37: *Consolidating Investments in Subsidiaries* (FRS-37).³ We have used this standard to determine whether an entity is a subsidiary of another public entity (that is, a controlled entity).
- 2.211 The effect of being assessed as a controlled entity under FRS-37 is that the controlled entity must be consolidated into the parent entity's group financial statements and the Auditor-General is the auditor of the controlled entity.
- 2.212 For financial reporting periods beginning on or after 1 January 2007, an NZ IFRS (NZ IAS 27: *Consolidated and Separate Financial Statements*) will apply for the purpose of the control test. That standard also uses the concepts of control, power, and benefit that apply under FRS-37, and refers to FRS-37 as a source of additional guidance when applying NZ IAS 27. FRS-37 is, therefore, still relevant to determining control for New Zealand public entities. We do not anticipate major changes to the Auditor-General's portfolio arising from the adoption of NZ IFRS.
- 2.213 We discuss in paragraphs 2.214-2.230 how we have applied FRS-37 in determining whether a public entity controls another entity since the Public Audit Act was enacted.
- 2.214 The approach under FRS-37 is to consider the *substance* of the relationship between two entities to determine whether one controls another. Control is defined in FRS-37 as:

“Control” by one entity over another entity exists in circumstances where the following parts (a) and (b) are both satisfied:

(a) the first entity has the capacity to determine the financing and operating

³ The standard was issued in October 2001 and applies to general purpose financial reports covering periods ending on or after 31 December 2002.

policies that guide the activities of the second entity, except in the following circumstances where such capacity is not required:

- (i) where such policies have been irreversibly predetermined by the first entity or its agent; or*
 - (ii) where the determination of such policies is unable to materially impact the level of potential ownership benefits that arise from the activities of the second entity.*
- (b) the first entity has an entitlement to a significant level of current or future ownership benefits, including the reduction of ownership losses, which arise from the activities of the second entity.*

2.215 Part (a) of the definition is referred to in FRS-37 as the “power” element, and part (b) as the “benefit” element. These elements are linked, as ownership benefits are derived from the policies that guide the activities of a subsidiary. Both elements must be present for control to exist, unless one of the exceptions to the power element in subparagraphs (i) or (ii) applies.

Power element

2.216 Under FRS-37, an entity is presumed to control another entity if it appoints a majority of members of the second entity’s governing body or controls a majority of voting rights at a meeting.⁴ FRS-37 overlaps with the legal limbs of the control test in this respect. However, FRS-37 goes further than the legal tests by setting out other indicators of power that are not solely related to appointment of the governing body or voting rights. Examples of other indicators of power include where an entity has a direct or indirect ability to:

- determine the revenue raising, expenditure, and resource allocation policies of another entity, including an ability to modify or approve the entity’s budget; or
- veto, overrule, or modify decisions of the governing body other than for the purpose of protecting existing legal or contractual rights or restrictions.

2.217 The exceptions to the power element (subparagraphs (i) and (ii) in the FRS-37 definition of control) are also a significant extension to the legal tests of control (see paragraph 2.222).

Benefit element

2.218 The benefit element requires the parent entity to have an entitlement to a significant level of ownership benefits from the subsidiary’s activities or a greater entitlement to benefits than any other possible parent entity. Ownership benefits give a return on an investment.

⁴ Paragraph 5.10 of FRS-37 sets out other circumstances that establish “rebuttable presumptions” that control exists.

- 2.219 Types of ownership benefits include:
- benefits from the distribution of earnings or net assets (for example, a right to a significant level of the net assets of an entity in liquidation); or
 - other benefits from control over net assets (for example, synergistic benefits from a parent and subsidiary combining their activities); or
 - benefits from an entity undertaking activities that are complementary to those of the parent.

- 2.220 In our experience, the activities of trusts formed by public entities often complement those of the public entity. FRS-37 states:

A parent's entitlement to other ownership benefits may also arise in circumstances where there is a supply of goods or services to a third party by the possible subsidiary, which meets an operating objective of the parent. For example, it is common for special entities such as trusts to be established to provide certain services to support the operating objectives of another entity. In such circumstances, a parent may benefit from complementary activities. Because it can be difficult to identify clearly whether a given circumstance establishes an entitlement to receive the benefits resulting from complementary activities, this Standard takes the position that such entitlement arises when all three of the following conditions apply:

- *the supply of goods or services by the possible subsidiary is directly consistent with, and is likely to enhance, the operating objectives of the parent, and*
- *determination of the nature of the goods or services to be supplied is a direct consequence of the exercise of the parent's decision-making ability over the activities of the possible subsidiary, and*
- *the parent is relieved, as a result of the activity of the possible subsidiary, of an actual or constructive obligation to provide such supply; or the parent has a right to receive a future service delivery from the possible subsidiary that is not subject to additional funding to be provided by the parent.*

- 2.221 Because of the wide-ranging powers and functions of local authorities, it is common to find that the activities of a trust are complementary to, or consistent with, the objectives of the local authority. Where the local authority set up the trust and the trustees are unable to make substantive changes to the terms of the trust, it is likely that the local authority controls the trust under FRS-37.

Exceptions to the power element

- 2.222 FRS-37 identifies two circumstances where it is not necessary to have the power element to satisfy the definition of control (see paragraph 2.214).

2.223 We have found that the first circumstance often applies to trusts formed by public entities. This is where the policies that guide the activities of an entity have been predetermined and are unable to be modified. In such cases, a power element is not necessary, although the benefit element is still required. Any party that has set up such an entity, and has ownership benefits, has control. These arrangements are sometimes described as “irreversible predetermined mechanisms” or “autopilots”. This is discussed further in paragraphs 2.225-2.230.

Trusts controlled by local authorities

2.224 Since the Public Audit Act was passed, we have identified a number of charitable trusts in the local government sector as being controlled by one or more local authorities in terms of FRS-37. The most common circumstances of control include:

- a local authority that has the right to appoint all or a majority of the trustees, in which case control under FRS-37 is presumed to exist in the absence of evidence to rebut that presumption – the presumption is generally not rebuttable if the local authority receives significant ownership benefits from the charitable trust; and
- a charitable trust set up by a local authority where the local authority does not appoint a majority of trustees but the trust’s:
 - objects or purposes have been determined by the local authority and cannot be changed; and
 - complementary activities provide benefits to the local authority (FRS-37 refers to such arrangements as autopilots, discussed in paragraphs 2.225-2.230).

Autopilots

2.225 In the case of a trust set up for charitable purposes, it is reasonably common to find either that the objects or purposes specified in the trust deed cannot be changed or that substantive changes to the terms of the trust cannot be made. In some cases, substantive changes could be made only if it is no longer possible or practicable to achieve the objects and if approved by the High Court.⁵ Trustees of charitable trusts often have a power to make amendments to procedural or technical aspects of trust deeds to give better effect to the purposes of the trust, provided that any such changes do not affect the status of the trust for income tax purposes. In our view, this is not the same as having a power to make substantive changes to the terms of the trust.

2.226 Such trust deeds can be an “irreversible predetermined mechanism” or “autopilot” in terms of the first exception to the power element in FRS-37. Where that is the

⁵ The Charitable Trusts Act 1957 contains a regime for the variation of charitable trusts where the trust fails in some way.

case, the power element under the standard does not have to be present and the parent entity does not need to have an ongoing power to appoint trustees or some other form of power.

- 2.227 We have found that many trusts controlled by local authorities are in this category – that is, the policies that guide the activities of the trust had been irreversibly predetermined by the local authority when the trust was set up. Where the local authority is entitled to receive benefits from the trust’s activities and the trustees cannot make substantive changes to the objects of the trust that would affect the local authority’s entitlement to receive those benefits, the significant policy direction of the trust is unlikely to change and the local authority therefore controls the trust under FRS-37.
- 2.228 In many cases, local authorities have set up trusts at arm’s length so that the trust would be able to perform its functions independently. Examples that we have considered include fundraising trusts set up for large capital projects, such as events centres, or trusts set up to operate facilities such as museums or libraries.
- 2.229 Many local authorities and trusts have found it surprising to be told that many such trusts are controlled for accounting purposes under FRS-37 and are therefore public entities. This is partly because the standard did not apply when the trusts were set up. The concept of control is not seen as appropriate for a trust, as the trustees are under a legal duty to act independently in accordance with the objects of the trust and do not consider themselves to be controlled in any sense by the organisation that set up the trust.
- 2.230 In general trust law, once a settlor has given property to trustees on trust, the settlor has divested themselves of the asset. The trustees do not get ongoing funding from the settlor and must act independently of the settlor. The accounting standard does not sit easily with trust law in this respect, but it does acknowledge that entities often form trusts to provide services that support their objectives. The standard-setters were clearly aware of its possible application to trusts.

Disputes with controlled entities

- 2.231 We have had protracted debates with trustees of a small number of trusts about whether the trusts are in fact controlled by local authorities under FRS-37.
- 2.232 One issue is whether the objects and purposes of a trust are “the financing and operating policies that guide the activities of the entity” within the meaning of FRS-37. The definition of control in FRS-37 refers to “the financing and operating policies that guide the activities of the second entity”. In the case of a charitable

trust, we consider that the policies that guide the activities of the trust are the objects or purposes of the trust rather than day-to-day administrative matters such as the particular powers applying to the operational, borrowing, or investment activities of the trust (which, in any case, must be exercised to further the trust's objects or purposes).

- 2.233 Another issue is whether the policies that guide the activities of the subsidiary can be modified – that is, whether the trustees can make substantive changes to the objects or purposes of the trust. In our view, it is not possible for trustees to make substantive changes to the terms of the trust in a way that affects the parent entity's entitlement to ownership benefits. For example, the trustees of a charitable trust set up to raise funds for the benefit of a particular entity would be likely to be in breach of their duty if they were to change the objects and purposes of the trust to benefit another entity.
- 2.234 In some cases, trustees have questioned whether the local authority set up the trust. This is partly a question of fact, and often the trusts and local authorities have not been willing or able to make records or evidence of the facts of establishment available to us. In some cases, we have been told that the person, such as a mayor or chief executive of a local authority, settled a trust associated with the local authority in their private capacity rather than on behalf of the local authority.
- 2.235 Trustees have also questioned whether the public entity derives ownership benefits from the activities of the trust. In most cases, we consider that the activities of the subsidiary trust are complementary to those of the parent where the three requirements in FRS-37 for complementary benefits apply and the benefit test is met.
- 2.236 In many cases, the real concern of trustees is with the idea that they are controlled by another entity when in legal terms and in practice they are independent. They are also concerned about the possible effect of being consolidated into the group financial statements of a public entity. Some trustees have told us that they believe that consolidation would affect their ability to raise funds from members of the public and other funding organisations, as they would be perceived to be part of a publicly funded entity.
- 2.237 We do not know whether this concern has eventuated for those trusts that have been consolidated. If the trustees' concerns were realised, this would be an unintended consequence of the application of the control test. In our view, being subject to public audit and the greater accountability associated with that may enhance a trust's appeal to the public and funding organisations.

- 2.238 Trustees tend to be less concerned about the Auditor-General appointing their auditor than about the potential effect of consolidation. The concern about consolidation has proved to be an obstacle to our appointing an auditor in a small number of cases, and some trusts have not been willing to accept that they are subject to the Auditor-General's mandate.
- 2.239 Where the activities of a subsidiary entity are material to the activities of a parent entity, generally accepted accounting practice (GAAP) requires the parent to consolidate the subsidiary entity into its group financial statements. Where the parent entity is not willing to do so or is unable to do so because the subsidiary will not provide the necessary information, then the audit opinion on the group financial statements of the parent entity may need to be qualified.
- 2.240 In some cases, the trustees have considered winding up the trust to avoid consolidation and public audit, or resettling the trust fund on a new trust that would not be subject to public audit. In some instances, if the trust deed does not contain an express power to resettle, trustees have found that they do not have the ability to resettle the trust in the way they seek.
- 2.241 We are aware of one trust in the local government sector that took this step. The Manukau Community Charitable Trust (known as Trust Manukau) was formed in 2000 to perform charitable activities to benefit communities in the Manukau City Council region. The Mayor of Manukau City Council had settled the trust.
- 2.242 We had concluded that the charitable objects in the trust deed were entrenched and that the activities of the trust were complementary to those of the council. Accordingly, the council had established an "autopilot" in terms of FRS-37, with the result that the Auditor-General was responsible for appointing the trust's auditor and the council needed to consolidate the trust's activities into its group financial statements.
- 2.243 The trustees did not accept our assessment that the trust was controlled by the council under FRS-37. The trustees considered that, even though setting up the trust had initially been a Manukau City Council initiative, the mayor was acting in his private capacity as the "first citizen" when he settled the trust. The trustees noted that there was no formal council minute that authorised the mayor to act on behalf of the council to set up the trust.
- 2.244 The trustees also disagreed with our assessment that the activities of the trust were directly consistent with or complemented the council's operating activities and that the council therefore received ownership benefits from the trust's activities.

- 2.245 The trustees were concerned about being defined as a public entity and the requirement that the trust's financial statements be consolidated within the annual financial statements of Manukau City Council. They believed this requirement would defeat the trust's original purpose – namely to raise funds from the private sector to support community development projects in Manukau.
- 2.246 The trustees told us that they had given assurances to donors about their independence from the council, and this would be compromised by consolidation into the council's financial statements. They considered too that the trust must be seen by the public of Manukau to be independent of the Manukau City Council to effectively carry out the objects and purposes for which it was formed.
- 2.247 The trustees told us that they considered whether to pursue other legal avenues such as a declaratory judgment from the High Court on the nature of the relationship between the council and the trust (and therefore whether FRS-37 was applicable), but in the event decided that this option was too costly. The trustees then investigated the option of winding up the trust and starting a new legal entity that had the same broad goals but that would not be subject to the provisions of the Act and FRS-37.
- 2.248 The trustees consulted us and the council about their intention to wind up the trust. The trustees told us that they wished to maintain the ongoing support and goodwill of council for any future activities that a successor organisation might carry out. The Manukau City Council agreed to accept early repayment of a loan that it made to the trust in 2001 and then re-advance those funds to the new trust on the same terms.
- 2.249 We are generally reluctant to provide entities with advice about how to avoid being subject to public audit, as we consider that it is undesirable for assets that are subject to public audit (and the accountability that goes with that) to be transferred to another entity that is not publicly accountable. We are also concerned about potential wasteful expenditure by trusts in seeking to avoid public audit, especially where there is no explicit power in a trust deed to resettlement trust assets or where approval of the High Court would be required. However, in this case, we appreciated being consulted by the trust and noted that the trust was also consulting with the council. We gave some general comments on the proposal to wind up the trust and resettle the trust fund.
- 2.250 The trustees resolved to wind up the Manukau Community Charitable Trust and settle the trust assets on a new trust, the Manukau Community Foundation, in October 2005. The Manukau Community Foundation was set up in such a way as to avoid being subject to public audit or consolidation by the council.

- 2.251 Apart from the Trust Manukau case outlined above and a small number of other trusts that are subject to ongoing debate, we have resolved most disagreements with controlled entities and they have eventually accepted our view that they are controlled under FRS-37. We have explained that the test for control under FRS-37 is relevant for accounting purposes only and does not affect the role or independence of the trustees. In many cases, we have been able to appoint the trust's existing auditor to conduct the audit on our behalf.
- 2.252 We can appreciate why our conclusions are sometimes contentious for trustees who regard themselves as completely independent from the settlor entity and are concerned about the implications of "control". The Auditor-General is bound by the Public Audit Act, which aims to ensure that there is public accountability for all public entities, including controlled public entities. We have explained that, in determining control under the Public Audit Act, we are applying the accounting standard as we understand it. We have suggested to entities that they should raise their concerns about the application of the standard to trusts with the standard-setters.⁶
- 2.253 If we reach the point where a controlled public entity refuses to accept that the Auditor-General is its auditor, we consider that it is important to advise Parliament and provide the name of the controlled entity. We do not yet need to take this step, but will do so as necessary in the future.

2.3 Requests for inquiries

- 2.301 During 2005/06, we continued to receive a steady stream of correspondence from members of the public requesting the Auditor-General to investigate the activities or decisions of their local authorities. The Auditor-General has a mandate to inquire into a public entity's use of its resources, at his discretion.
- 2.302 We do not begin a formal inquiry for every request that we receive, but we do consider each request to decide the most appropriate manner in which to proceed. It might be that the correspondent does not raise issues of enough concern to our Office, or we might not be the most appropriate authority to consider the issues. On the other hand, we might decide to take the matter further and formally investigate the local authority's actions.
- 2.303 In making this decision, we will often make preliminary enquiries of the auditor and the local authority to ensure that we have enough understanding of the background to the issues raised. As a result of this preliminary work, we will be in a better position to understand the main issues and the extent to which further investigation is required by us or, perhaps, the appointed auditor for the entity.
- 2.304 In the local government area, many of the issues that are raised with us relate to consultation and decision-making processes. We are carrying out some specific work in this area, and discuss this further in article 6.4. Other common themes include conflicts of interest, management of contracts, and accountability arrangements.

Conflicts of interest

- 2.305 Alleged conflicts of interest are a recurring theme in the correspondence that we receive about local authorities. Our interest (and limitations on our role) in this area differs depending on the nature of the alleged conflict.
- 2.306 One theme that often appears in ratepayer correspondence is an alleged conflict of interest – usually a suggestion that a member of the local authority has a conflict of interest as a result of their other roles or involvement in the community or their previously expressed views. A conflict of interest exists where a member's duties or responsibilities to their local authority could be (or could be perceived as being) affected by some other separate interest or duty that they may have.
- 2.307 We recently published an updated edition of our general guidance for members of local authorities about both pecuniary and non-pecuniary conflicts of interest.¹ Our role in this area depends on whether the alleged interest is pecuniary (that is, financial) or not. (We have also prepared guidance material for the broader public sector – see article 5.1.)

¹ *Guidance for members of local authorities about the law on conflicts of Interest*, ISBN 0-478-18180-9 (June 2007).

- 2.308 Pecuniary conflicts of interest are governed by the Local Authorities (Members' Interests) Act 1968. We have a role in administering that Act that includes the ability to investigate and prosecute alleged offences. There is some discussion of this role in Part 5.
- 2.309 Many of the complaints we receive about local authorities concern non-pecuniary conflicts of interest. Our role in this area is quite different, as we do not have a role in enforcing any rules about conflicts of interest. We do not generally publicly issue an opinion on whether we consider a particular member is biased (or has some other type of conflict of interest) in any specific case. In particular, we cannot direct a member not to participate in a matter, we cannot prevent a local authority from making a decision about a matter, nor can we require a local authority to overturn a decision that it has already made.
- 2.310 We will sometimes look into matters of probity under our general inquiries role, but we choose these carefully. We do not take an active role in reviewing all individual behaviour that might amount to a non-pecuniary conflict of interest. We would only review such matters in especially significant cases.
- 2.311 Moreover, we are not usually able to form a view about members' oral statements or demeanour in meetings or in private conversations, where it is not easy to prove precisely what may have occurred or how the behaviour would reasonably be perceived.
- 2.312 A member who disregards a conflict of interest risks having to defend themselves against a complaint to the local authority, political and media criticism, or even legal action. If a person challenges a local authority's decision by way of judicial review proceedings, the High Court could invalidate the decision because of bias on the part of a member of the local authority.
- 2.313 We encourage members to take a cautious approach to conflicts of interest. Nevertheless, it is for the members concerned to exercise their own judgement as to whether they think they should withdraw from participation in any given matter. Ultimately, only the courts can determine whether the law has been breached in any particular instance.
- 2.314 An example of a request for an inquiry received in this area concerned the central plains water scheme in Canterbury. This was a proposed water scheme that involved the Central Plains Water Trust, which was established by Christchurch City Council and Selwyn District Council. Although we declined to carry out an inquiry into allegations that members of the Trust had conflicts of interest, we released our general comments about the issue on our website.²

² See www.oag.govt.nz/whats-new/2006/central-plains-water-scheme.

2.315 We refer to this matter specifically as we received several requests for the Auditor-General to carry out an inquiry into this scheme, and the letter we released publicly illustrates our approach to the area of non-pecuniary conflicts of interest.

2.4 Development contributions

- 2.401 Many local authorities introduced development contributions policies as part of their 2006-16 Long-Term Council Community Plans (LTCCPs). However, a number of policies were either deferred or subject to almost immediate amendment in early 2006/07. The High Court recently found aspects of North Shore City Council's development contributions policy unlawful.¹ This will require local authorities that took similar approaches to reconsider their policies, which may lead to further amendments to the 2006-16 LTCCPs.
- 2.402 This article highlights some of the issues arising from the development and implementation of development contributions policies in LTCCPs, and potential implications from their use as a funding source. In particular, we draw together our observations from:
- auditing the 2006-16 LTCCPs; and
 - auditing proposed amendments to LTCCPs related to development contributions since 1 July 2006.

Background

- 2.403 The Local Government Act 2002 (the Act) authorised local authorities to impose development contributions, giving local authorities a direct mechanism to fund asset costs caused by growth. Levied as money, land, or both money and land, contributions may be charged on any development, such as a subdivision that generates a demand for reserves, network infrastructure (roads and transport, water, and wastewater and storm water collection and management), or community infrastructure (land and public amenities).
- 2.404 Development contributions are established through a development contributions policy. As with all of the funding and financial policies required under the Act, the development contributions policy must be adopted using the special consultative procedure and included in the LTCCP. It may be amended only as an amendment to the LTCCP.
- 2.405 As a funding mechanism, development contributions policies seek to recover costs from parties such as property developers. The sums sought can be significant, with contributions of up to \$30,000 for each section of land in some areas. Consequently, developers do closely monitor development contribution policies and are generally prepared to aggressively challenge a policy, including the process to develop and adopt a policy.
- 2.406 The provisions of the Act are reasonably complex. Local authorities must make a number of assumptions and significant judgements in applying them.

¹ *Neil Construction Limited and others v North Shore City Council* (unreported, High Court, Auckland, CIV 2005-404-4690, 21 March 2007, Potter J).

- 2.407 Initial guidance on the application of the Act was provided in the form of a local government “KnowHow” guide on developer contributions. The guide set out some of the background to those provisions of the Act, explained how they are intended to work in practice, and set out recommendations of good practice in managing the necessary systems. The guide was prepared in 2005.
- 2.408 The High Court decision in the North Shore City Council case is the only available authority on how the courts will approach the review of a development contributions policy. The Court found that the council had made errors of law in developing its policy. The council’s policy had attributed the capital expenditure for particular projects or activities in its LTCCP primarily to growth. The Court held that this “causation” or “exacerbator pays” approach was too narrow, and the council had not sufficiently factored in the benefits to existing ratepayers of some capital projects. This finding involved the Court reviewing the council’s approach to weighing the principles in section 101(3) of the Act in its funding decisions.
- 2.409 The Court also found that the North Shore City Council’s policy did not meet the requirement of the Act to assess development contributions against a “development” that creates a demand for reserves, network infrastructure, or community infrastructure. In some instances, the policy provided for contributions to be charged against developments that did not create such demand.
- 2.410 The sector will follow closely how North Shore City Council responds to the judgment. Other local authorities that have taken the same approach as North Shore will need to consider their policies in the light of the judgment.
- 2.411 The existing sector guidance, in the form of the KnowHow guide, will need to be updated to reflect the judgment and other developments resulting from the 2006-16 LTCCPs.
- 2.412 Given the complexity and financial significance of development contributions policies, and the high level of interest from developers directly affected by the policies, it is not surprising that the development of, and consultation on, the policies by local authorities was one of the most challenging aspects of the LTCCPs.

Complexity of matters to be considered

- 2.413 At its most basic level, a development contributions policy seeks to recover some or all of the asset costs caused by growth from those who caused the growth.

A local authority needs to make judgements in several areas.² A local authority needs to:

- consider whether it will impose development contributions as part of its overall revenue and financing policy. The use or non-use of development contributions as a funding source is a funding decision that needs to be considered and explained in terms of section 101(3) of the Act, which includes the equitable allocation of responsibility for funding throughout the asset's useful life, whether all or only a part of the community benefits, and the extent to which the actions or inactions of particular people have contributed to the funding need;
- identify the expected growth within the district or city. In many instances, this has resulted in local authorities identifying different pockets of growth for different townships or locations within their boundaries;
- determine what assets are required in full or in part because of growth. This requires it to consider the existing capacity and location of its infrastructure compared to the areas where growth is expected and increased capacity resulting from the growth will be needed;
- define what the relevant asset costs include, for both future assets and assets that have already been completed;
- develop an appropriate methodology for differentiating between costs caused by growth and other costs. This is especially difficult where a new asset is required and only a portion of that need is attributable to growth. The Act does not provide guidance as to whether costs should be pro-rated or apportioned on a marginal costing basis in assessing this split; and
- calculate the contributions payable, including whether the local authority should set them by location or on a city-wide or district-wide basis. Although the Act caps the maximum contribution payable for reserves, local authorities may consider a lower contribution level to be appropriate when considering the revenue and financing policy and other funding equity issues.

2.414 Preparing this information and making these judgements takes a substantial amount of time and effort. Some local authorities did not appreciate the time it would take to prepare a development contributions policy for the draft 2006-16 LTCCP.

2.415 The assessments made at each point in the creation of a development contributions policy are heavily dependent on the reliability of the forecast information available, the local authority's underlying funding principles, and the judgement of the members and management.

² This is a discussion of some of the options local authorities need to consider. It is not intended to be exhaustive, nor is it intended to be advice about how to prepare a development contributions policy.

Consultation

- 2.416 Some local authorities appeared to underestimate the level and complexity of submissions made on new development contributions policies. Local authorities introducing a development contributions policy for the first time in their 2006-16 LTCCP typically received numerous submissions. In some instances, this resulted in the policies being delayed or altered before they were adopted in the final LTCCP, including varying policies so that the contributions sought from the policy were introduced in stages rather than as a one-off charge.
- 2.417 Those local authorities that adopted development contributions policies in the 2006-16 LTCCP with comparatively minimal submissions and alteration to their policy typically either had an existing policy completed at an earlier stage or had started the process of developing their first policy up to two years before including it in the draft LTCCP. This included discussions with interested parties, such as developers, to explain the effect and methodologies adopted.
- 2.418 Three local authorities began amendment processes to their LTCCPs almost immediately after adopting the LTCCP, to put their development contributions policies into the LTCCP. This was because of lack of time to complete the policy for inclusion in the draft LTCCP, or significant concerns being raised during the consultation process that required further work on the policy.

Inconsistencies between policies and other information in the Long-Term Council Community Plan

- 2.419 In auditing the draft LTCCPs, we noted inconsistencies in the LTCCPs between the stated policies and other information, including:
- differences between growth assumptions in the development contributions policy and growth assumptions used elsewhere in the LTCCP; and
 - capital expenditure schedules used in the development contributions policy differing in total and for individual items from the capital expenditure figures included in the financial projections.
- 2.420 Any issues identified were corrected before the document went for consultation. However, these points further highlight the difficulties in preparing a development contributions policy in an integrated LTCCP – especially in instances where development contributions policies were prepared by staff working in isolation on different components of the final LTCCP. It was also symptomatic of the time and pressure many local authorities faced in preparing the LTCCP.

Financial significance

- 2.421 The LTCCPs forecast increases in revenue from development contributions for the local authority sector from about \$275 million to \$480 million during the 10 years of the LTCCP. On average, development contributions are expected to form about 5% of revenue for the overall sector. However, for local authorities in high growth areas, development contributions represent up to 20% of all revenue.
- 2.422 The timing and scale of the construction of growth assets is critical. In a high-growth environment, the assets are often needed at the beginning of, or early in, the growth phase. Delayed construction of the assets means that services cannot be provided or growth is constrained. Conversely, building an asset on the expectation of a certain level of growth that does not eventuate may result in a shortfall of contributions, which means that a local authority will need to use other funding sources to fund asset construction. For local authorities incurring substantial borrowing to construct growth-related assets that have already substantially increased rates, this represents a particular risk to their overall financial strategy. This risk is exacerbated if local authorities are already charging the maximum allowable for each unit under the Act.
- 2.423 Managing and monitoring the actual growth, compared to forecast growth, and considering the implications on the capital programme and resulting development contributions will be critical to managing this risk.

Conclusion

- 2.424 Development contributions policies are still in their infancy in the local government sector. Additional or updated guidance on the interpretation and application of the relevant provisions of the Act would help the sector to adopt a consistent methodology to developing and applying the policies. The outcome from the North Shore City Council High Court case may assist.
- 2.425 There is also the opportunity for the sector to provide national leadership in developing standard approaches to development contributions policies.
- 2.426 Although development contributions represent a significant source of funding, their use as a financing mechanism is not without risks, especially where assets are constructed in anticipation of growth. Close monitoring of growth is essential for confirming that the timing and scale of projects and resulting contributions remain appropriate.

Part 3

Annual reports and summaries in an election year

3.1 Annual reports and summaries in an election year

- 3.101 The 2007 local government elections are due to be held on 13 October 2007. Local authorities need to take care in preparing and publishing annual reports and summaries of their annual reports in 2007, to ensure that those documents do not give an electoral advantage to existing members during the pre-election period.¹
- 3.102 The Local Government Act 2002 (the Act) changed the timing for the annual report, by requiring it to be audited and adopted by 31 October at the latest, and introduced a new requirement for each local authority to prepare a summary of its annual report. The annual report and summary must be made publicly available² within one month of adopting the annual report – that is, by the end of November at the latest.
- 3.103 The summary of the annual report must represent, fairly and consistently, the major matters dealt with in the annual report. We are required to audit the summary for compliance with this requirement, and the published summary must contain our audit report.
- 3.104 The summary of the annual report is a particularly important document. Many members of the community would look at the summary but not necessarily the full annual report.³
- 3.105 Local authorities need to be particularly careful about the content of their annual reports and summaries in a local government election year. In 2004, we published a report on good practice principles for public communications by local authorities.⁴ The principles discussed in the report as relevant in a pre-election period are that:
- a local authority should not promote, nor be perceived to promote, the re-election prospects of members in a local authority-funded publication (such as a summary annual report);
 - a local authority should exercise care in the use of its resources for communications that are presented in such a way that they raise, or could have the effect of raising, a member's personal profile in the community; and

1 By "pre-election period", we mean the three months before the close of polling day.

2 See section 5(3) of the Act for the definition of "publicly available".

3 The Society of Local Government Managers has developed good practice guidance for preparing summaries and suggestions for their communication and distribution.

4 *Good Practice for Managing Public Communications by Local Authorities*, available on our website at www.oag.govt.nz/2004/public-communications.

- a local authority's communications policy should recognise the risk that communications about members, in their capacities as spokespersons for the authority, during a pre-election period could result in the member achieving an electoral advantage at ratepayers' expense.
- 3.106 The report states that, in particular, photos or information that may raise the profile of a member in the electorate should not be used during the pre-election period.
- 3.107 In 2004, we received complaints about the content of a local authority's summary of its annual report that was published and distributed in the period before the 2004 local authority elections.⁵
- 3.108 The local authority had published the summary of its annual report within one month of adopting its annual report. This timing coincided with the run-up to the 2004 local authority elections, and led to some concerns in the community and from candidates who were not members that the summary was being used as a council-funded advertising opportunity for members who were standing for re-election. The summary included several photos of members (about 25% of the content).
- 3.109 This issue will require careful management by local authorities during the pre-election period for the 2007 elections. Local authorities must ensure that a summary is a fair representation of the major matters in the annual report, and is set out impartially without providing a platform for political promotion. Authorities must also ensure that material in the annual report does not have the effect of promoting or favouring members who are candidates for re-election.
- 3.110 The issue will arise particularly for those local authorities that adopt their annual reports early and that must publish a summary within one month of adoption. As noted in article 1.2, several authorities tend to adopt their annual reports well before the statutory deadline each year. The incentive to do so may be stronger in an election year.
- 3.111 For local authorities that adopt their annual reports nearer the statutory deadline of the end of October, the annual report and summary could be published in November, after the elections, and the issue avoided.
- 3.112 We have written to local authority chief executives to draw their attention to these issues.

⁵ The local authority concerned had adopted an LTCCP in 2003, and was therefore required to prepare a summary of its annual report under the Act.

Part 4

Cemetery trustees

4.1 Financial overview

- 4.101 The purpose of this article is to provide an overview of the financial performance of cemetery trustees since we last reported on the sector in 1998.¹ It continues our practice of reporting, on a rotational basis, the financial performance of the smaller sectors that fall within the Auditor-General's mandate in our "results of the audits" reports.²
- 4.102 The cemetery sector is defined as those entities that meet the definition of "trustees" of a cemetery under section 2 of the Burial and Cremation Act 1964 (the Burial Act).
- 4.103 The Auditor-General is the auditor of 97 cemetery trustees under section 29(3) of the Burial Act and section 15 of the Public Audit Act 2001.
- 4.104 The Burial Act requires only cash accounts to be prepared. Cash accounts do not comply with generally accepted accounting practice (GAAP). The standard audit report issued for a cemetery trustee's statement of accounts that has been prepared in accordance with the Burial Act has been modified so that reference is made to non-compliance with GAAP, but this does not result in qualification of the audit opinion.

Overview of financial performance

- 4.105 The information in Figure 4.1 is based on figures extracted from the most recently audited statement of accounts.
- 4.106 In our 1998 report, we drew attention to the fact that many cemetery trustees were in arrears in preparing their annual statements of accounts. We noted that 390 sets of accounts were in arrears for a period of up to 18 years for the then 131 cemetery trustees. The situation has substantially improved since that article was written.
- 4.107 As can be seen from Figure 4.1, some trustees are still having difficulty. The most recent statements of accounts that have been received and audited for some trustees are for the year ended 31 March 2003. However, there are now only 52 sets of accounts in arrears, with only 17 of these being in arrears for more than one year.
- 4.108 The consequence of having a significant number of statements of accounts in arrears is that there is no assurance that funds held for managing cemeteries are

1 *Our First Report for 1998*, parliamentary paper B.29[98a], pages 137-142, reported on issues associated with the audit of Cemetery Trustees and Reserve Boards.

2 *Local Government: Results of the 2004-05 Audits*, parliamentary paper B.29[06b], provided an update on the financial performance of the Reserves Board sector.

being correctly accounted for. There is also the risk that important historical burial records may become lost.

- 4.109 In our 1998 report, we raised concern about the high degree of effort put into encouraging trustees to prepare the accounts, for very little return. This concern related to both the high level of arrears and the prohibition in the Burial Act on charging fees for the audits. Since our 1998 report, Part 1 of Schedule 4 of the Public Audit Act repealed the previous section 29(3) of the Burial Act, which prevented fees being charged for auditing the accounts of any cemetery trustees. Accordingly, fees may now be charged under section 42 of the Public Audit Act if it is considered reasonable to do so. At present, fees are charged for audits of only those cemetery trustees that have revenue of more than \$50,000 a year.
- 4.110 We now receive some Crown funding to enable us to contribute to the costs incurred by auditors of cemetery trustees under the \$50,000 threshold.

Figure 4.1

Summary of cemetery trustees' most recent audited financial information

Cemetery trust	Year of latest audited figures	Receipts (\$)	Payments (\$)	Cash and investment funds held (\$)
Apiti	2005	3,880	1,797	8,804
Avoca	2005	25	-	907
Balfour	2006	386	6	1,992
Blacks	2005	427	501	3,475
Blackstone Hill	2004	10	-	873
Broadwood	2005	844	-	3,092
Bunnythorpe	2003	474	2,919	2,438
Calcium	2005	4,878	2,114	10,479
Clinton	2006	7,175	4,766	14,676
Cracroft	2005	5	2	493
Crookston	2005	4,567	244	7,203
Dovedale	2006	618	114	2,162
Drybread	2006	26	-	736
Dunkeld	2006	1	-	470
Eastern Bush	2006	50	-	886
Ettrick	2006	6,368	6,562	506
Eyreton	2006	8,612	1,836	8,020
Fabians Valley	2004	-	-	101
Forest Hill	2006	16,573	2,322	19,072

Cemetery trust	Year of latest audited figures	Receipts (\$)	Payments (\$)	Cash and investment funds held (\$)
Fortrose	2006	12,826	2,129	11,365
Garston	2006	854	594	5,198
Georgetown	2006	6	-	579
Gimmerburn	2006	6	-	557
Glen Murray	2005	265	25	4,358
Hakataramea	2006	671	65	3,703
Hari Hari	2006	1,596	827	6,926
Hawea	2005	258	78	1,645
Huirangi	2005	2,795	581	9,725
Hukerenui South	2006	278	340	2,604
Huntermville	2006	3,931	3,952	10,432
Hyde	2006	80	-	2,348
Karamea	2006	2,380	2,974	217
Kauae*	2005	126,750	88,958	16,462
Kaurihohore	2006	10,977	5,040	23,795
Kyeburn Diggings	2006	106	-	1,631
Leigh	2006	1,553	1,043	17,962
Lepperton	2003	827	22	4,173
Little Akaloa	2006	992	306	2,725
Mangahao	2006	1,519	1,105	5,676
Mangapai	2004	9	3	886
Mangere**	2006	1,003,194	794,692	791,229
Mangungu	2004	1,208	-	8,891
Manutahi	2005	3,051	34	14,194
Marua	2005	1,297	6,528	11,545
Matakana	2006	507	-	1,749
Matakohe	2005	11,111	77	16,587
Mataroa	2005	529	11,538	2,017
Matata	2006	4,894	7,554	1,409
Merton	2006	1,073	1,282	14,372
Millers Flat	2006	7	-	1,215
Minniesdale	2005	400	748	2,373
Moutere Hills	2006	3,808	1,411	13,562
Ohingaiti	2003	4,714	1,135	3,901
Okato	2005	2,586	733	10,461
Orepuki	2006	3,097	2,489	8,250

Cemetery trust	Year of latest audited figures	Receipts (\$)	Payments (\$)	Cash and investment funds held (\$)
Otonga	2006	27	-	2,311
Owaka	2006	11,296	4,982	12,478
Papakaio	2006	4,116	560	8,280
Papatowai	2006	54	35	3,611
Parua Bay	2005	893	400	9,383
Pihama / Lizzie Bell Memorial	2005	3,737	1,050	10,792
Port Albert	2005	1,967	5,686	4,553
Puhoi	2006	8,628	3,526	35,558
Pukapuka	2005	7,795	1,956	43,649
Quarry Hills	2005	-	10	-
Rahotu	2006	2,336	2,308	3,000
Rai Valley	2006	576	6	2,006
Riversdale	2006	4,327	629	6,550
Riwaka	2005	4,069	5,128	4,258
Roxburgh	2006	1,076	778	4,672
Ruapuke	2005	8	1	767
Springfield	2005	386	420	1,482
Swinburn	2006	267	-	4,675
Tarras	2006	35	162	2,300
Te Arai	2006	679	13	3,503
Te Uku	2005	450	-	2,679
Tikorangi	2005	595	643	4,392
Tongaporutu	2005	179	1,071	3,672
Tuapeka Mouth	2006	1,168	-	3,638
Tuatapere	2006	9,768	3,931	96,056
Upper Wairau	2005	1,281	503	24,818
Waikaia	2006	173	131	4,984
Waikaka	2006	1,461	2	4,189
Waikawa	2006	147	214	3,880
Waikiekie	2006	1,027	518	6,759
Waikoikoi	2006	74	4	3,582
Wainui	2005	1,339	59	15,786
Waiotemarama	2006	975	206	2,254
Waipu	2005	5,787	3,904	39,559
Waiwhero	2006	1,200	93	1,749
Warea	2005	3,228	13,675	23,150

Cemetery trust	Year of latest audited figures	Receipts (\$)	Payments (\$)	Cash and investment funds held (\$)
Waverley	2006	20,180	26,288	7,231
Wayby	2005	157	-	1,476
Whangateau	2005	7,132	5,874	20,782
Whareora	2006	1,489	979	14,272
Whataroa	2005	347	3,438	5,233
Woodbury	2006	3,117	2,571	9,794
				\$1,584,870

* Accounts prepared on an accrual accounting basis – equity as at 31 March 2006 \$213,985.

** Accounts prepared on an accrual accounting basis – equity as at 31 March 2006 \$3,608,553.

- 4.111 Despite the legislative changes made since our last report in 1998 and the lower number of entities (because of cemetery trustees vesting their operations in local authorities), the progress on audit arrears is mostly a result of significant time commitment and persistence on the part of auditors. Given the very low volume and dollar value³ of transactions, we would, as previously, support the view that responsibility for cemeteries be passed to local authorities.
- 4.112 Many local authorities already administer and manage a large number of cemeteries, and in practice manage a number of cemeteries that are still legally the responsibility of the separate cemetery trustees. We can see no obvious reason for the majority of the remaining 97 cemetery trusts to continue. However, we understand that many local authorities would not be amenable to assuming the additional responsibility.
- 4.113 We will continue to work with all the parties involved to achieve a mutually agreeable and efficient resolution.

³ Of these entities, 73% have cash holdings of less than \$10,000, 92% have annual receipts of less than \$10,000, and 95% have annual payments of less than \$10,000.

Part 5

Local Authorities (Members' Interests) Act 1968

5.1 Overview of the Local Authorities (Members' Interests) Act 1968

- 5.100 The Local Authorities (Members' Interests) Act 1968 (the Members' Interests Act) governs the pecuniary (financial) interests of members of local authorities. It:
- controls the making of contracts worth more than \$25,000 in a financial year between members and the local authority; and
 - prevents members from discussing and voting on matters before the authority in which they have a pecuniary interest, other than an interest in common with the public.
- 5.101 The Office of the Auditor-General carries out the primary statutory functions under the Members' Interests Act.
- 5.102 Our general guidance about the Members' Interests Act is contained in *Guidance for members of local authorities about the law on conflicts of interest*,¹ which we published recently.
- 5.103 Each year we report on matters arising about the Members' Interests Act. In this article, we discuss:
- our approach to applying the exception for “interests in common with the public”;
 - our view about whether the Members' Interests Act raises issues for members' attendance at conferences;
 - a recent High Court decision that considered pecuniary interests; and
 - the application of the Members' Interests Act to civil union and de facto partners.
- 5.104 We also provide an update about reform of the Members' Interests Act, which is a matter we reported on in 2006.

Interests in common with the public

- 5.105 Section 6(1) of the Members' Interests Act prohibits a member of a local authority or its committees from discussing or voting on a matter before the authority in which the member has a pecuniary interest “other than an interest in common with the public”.
- 5.106 It is sometimes difficult to determine whether or not a pecuniary interest can be said to be “in common with the public”, particularly for wide-ranging matters such as Long-term Council Community Plans or development contributions policies. If

¹ ISBN 0-478-18180-9.

the interest is in common with the public, the member will not be caught by the statutory prohibition on discussing and voting on the matter.

- 5.107 Our general guidance about interests in common with the public is on pages 17 and 18 (in Part 3) of our 2007 guidance publication. In assessing whether an interest is in common with the public, a member should consider whether their interest is:
- of a different *nature* or *kind* to that of other people; or
 - significantly different in *size*.
- 5.108 In other words, the member should consider whether the matter affects the member in a different way or to a materially greater degree than most other people.
- 5.109 Members must always remain aware of the possibility of a pecuniary interest in cases where their particular interest is substantial and/or is shared by only a relatively small group of people. They need to consider whether many other members of the local community are likely to have a similar interest in the particular matter, or whether the personal significance of any particular matter to them is greater than it is likely to be to the general public.
- 5.110 We accept that some tolerance is necessary so as to apply the “interest in common with the public” exception in a realistic and practical way. Therefore, to rely on the exception:
- The member does not need to be affected to *exactly* the same extent as other members of the public. For instance, all ratepayers are affected slightly differently by the adoption of an overall rate. Nevertheless, we consider that this can safely be treated as an example of an interest that is in common with the public.
 - The interest does not need to be shared by *all* members of the public in the district – it is enough that the member is part of a large group of people affected in a similar way. The question of whether a group of people should be treated as “the public” is often a matter of degree. We acknowledge that it can be difficult to draw a clear line.
- 5.111 Individual members ought to be best placed to judge their own position. Each individual member will usually have the fullest information about the nature and extent of their own activities and interests, and whether and how they may be particularly affected by a particular matter before the local authority.

Property developers and development contributions policies

- 5.112 In particular, members who are also property developers may sometimes have interests that are different in kind to that of most other residents or “ordinary” property owners. A common example is preparing and adopting a development contributions policy.
- 5.113 A development contributions policy will ordinarily:
- summarise the capital expenditure required to meet increased demand for community facilities resulting from growth;
 - determine what proportion of that will be funded by development contributions, financial contributions required under the Resource Management Act 1991, and other sources; and
 - list the activities for which such contributions will be required.
- 5.114 In other words, such a policy will play a significant role in determining how much of a local authority’s future infrastructure costs will be levied directly on property developers. Accordingly, the policy will affect the costs of land development.
- 5.115 Most people will usually have the same type of interest in a development contributions policy, so any interest they have in the policy will often be an interest in common with the public. However, property developers may be in a different position. Such a policy has the potential to affect large-scale or professional property developers to a different degree to the general public. This means those people’s interests are different in kind (and often in size). A member who is in this position will sometimes have an interest that will prevent them from participating in discussions and voting on the matter.
- 5.116 In our view, a disqualifying interest in the consideration of a new development contributions policy is likely to exist when:
- a member currently owns, or is in the process of acquiring, property that is capable of subdivision or other development under the existing District Plan;
 - any such subdivision or development could be significantly greater than what an ordinary member of the public could expect to achieve with a reasonably average personal property holding; and
 - the local authority’s decisions on the form, content, or application of the policy have the potential to influence significantly the costs of the subdivision or development.
- 5.117 In paragraphs 5.118-5.119, we apply these principles to two contrasting hypothetical scenarios.

- 5.118 We consider that a member who has a significant property development interest in the area – as a current or intending developer, or as an owner of substantial landholdings with a reasonable likelihood of development – is likely to be affected in a different way and to a much greater extent by the development contributions policy than people who are simply residents or “ordinary” property owners in the district. We consider that a member in this position will have a disqualifying pecuniary interest.
- 5.119 However, many people in a district are likely to own properties that are theoretically capable of subdivision into several lots or that are capable of holding additional household units. We consider that a member who owns one or two above-average-sized residential properties that could potentially be subdivided in this way can quite reasonably consider their interest to be “in common with the public”.
- 5.120 Similar issues may arise with matters concerning a local authority’s capital projects that may be funded from development contributions. Where a particular decision relates to how such a project is funded, a similar pecuniary interest may arise for a member who is a property developer. But other decisions about the project, such as issues of design or location or operation, or questions about whether the project should go ahead at all, may not raise any pecuniary interest difficulties.

Targeted rates

- 5.121 Rating is another example of the application of the concept of interests “in common with the public”.
- 5.122 Most rating decisions, including general decisions about commercial and residential differential rates, will involve interests that are in common with the public. However, sometimes a particular decision about a targeted rate or differential applying to a very small class of properties might involve interests that are not in common with the public.
- 5.123 For example, in a small to medium-sized semi-rural district, we considered a proposed uniform annual charge worth \$300-\$600 to be levied on separately used or occupied parts of rating units. The proposal would have imposed extra charges on around 550 properties that had previously been treated as single rating units. That situation was finely balanced, and we took the view that the members of the local authority who were in the group of 550 (assuming that they were not affected to a significantly greater degree than other ratepayers in that group) had an interest that could reasonably be said to be in common with the public. In other words, the group was a large enough section of the public to be treated as

“the public” in that case. We would have taken a different view if the size of the group was, say, 100 ratepayers.

- 5.124 By way of contrast, we advised a local authority (a provincial city that has a population of more than 60,000) that we thought a member with an interest in a matter concerning a targeted rate for a water scheme affecting 280 properties had a pecuniary interest that was not in common with the public. The size of the group was too small. We considered that situation to be factually similar to the case of *Loveridge & Henry v Eltham County Council* (1985) 5 NZAR 257, where the High Court indicated (without deciding) that members in this position had an interest greater than that of the public at large.

Members' attendance at conferences

- 5.125 We are sometimes asked about whether a member of a local authority has a pecuniary interest in a decision about whether they should attend a conference, on behalf of the authority, in another city or country.
- 5.126 In general, we do not consider that a member has a personal pecuniary interest in such a decision. Conference representation is a matter of official local authority business, and the local authority should select who is best qualified to represent it. Any incidental personal benefit for a conference representative (such as an opportunity to receive hospitality from conference hosts, to gain personal experience of visiting another city or country, or to have the cost of attendance paid by the authority) would not in our view amount to a personal financial interest. Provided there is a sound business case for the authority to be represented at a conference, we consider it important not to regard such representation, on its own, as a “junket” or a privilege of holding public office.
- 5.127 Accordingly, in our view, the Members' Interests Act does not have any general application to local authority discussions about conference attendance.
- 5.128 However, the Members' Interests Act could apply to a situation where a member might expect or intend to derive some identifiable financial benefit from conference representation. For example, if the member expected or intended to use the conference as an opportunity to take a holiday or to visit family and friends, the availability of travel to and from the conference venue at public expense may be seen as an expectation of a gain of money for the member.
- 5.129 There appears to be nothing wrong in principle with a member extending an itinerary in this way. Were such a situation to arise at a local authority meeting, it would be up to the individual member to identify and declare a personal financial interest when nominating themselves to represent the authority at the conference. It also needs to be acknowledged that an expectation of personal gain

(such as a holiday before or after the conference) might not be in the mind of the member at the time of putting their name forward to attend. That would be for the member to explain after the event, should the matter become the subject of a complaint. The fact of the benefit being taken would be evidence that the member would need to rebut.

- 5.130 Expenditure on travel is a matter of sensitive expenditure, and so needs to be handled carefully. Further guidance about this is available in our recent publication *Controlling sensitive expenditure: Guidelines for public entities*.²

Recent case law about pecuniary interests

- 5.131 The Members' Interests Act does not define the term "pecuniary interest". Its meaning is considered by the courts from time to time.³ The test we use is:
- ... whether, if the matter were dealt with in a particular way, discussing or voting on that matter could reasonably give rise to an expectation of a gain or loss of money for the member concerned.*⁴
- 5.132 The High Court's decision in *Collinge v Kyd* [2005] 1 NZLR 847 is an interesting recent case, even though it does not involve a local authority. The case was about the law of trusts, but the Court was prepared to consider several public law cases, by way of analogy, in determining what constituted an "interest". It is a useful illustration of the potentially broad scope of indirect pecuniary interests.
- 5.133 The case involved two trustees of the Auckland Energy Consumer Trust. The Trust owns all the shares in Vector Limited, an energy company. A project had been proposed by Vector that required the Trust's approval, as shareholder.
- 5.134 Mr Collinge, a trustee, had connections with 200,000 bonds issued by Vector (a holding that would place the holder within the top 1.1% of bondholders). If Vector's proposal went ahead, the bonds would have been affected in two ways: the interest rate payable on them would decrease, and bondholders would have preferential rights in Vector's first public issue of shares.
- 5.135 The issue was whether Mr Collinge had a material interest in the proposal that precluded him from participating in the Trust's decision. Mr Kyd, the chairman of the Trust, had ruled that Mr Collinge had a material interest and must not participate.
- 5.136 The High Court agreed with the chairman, even though Mr Collinge was neither the legal nor the beneficial owner of any of the bonds.

² ISBN 0-478-18171-X – also available on our website at www.oag.govt.nz/2007/sensitive-expenditure/.

³ See, for example, *Auckland Casino Ltd v Casino Control Authority* [1995] 1 NZLR 142 and *Calvert & Co v Dunedin City Council* [1993] 2 NZLR 460.

⁴ This is adapted from *Downward v Babington* [1975] VR 872.

- 5.137 The judge held that the amount of the investment was relevant to whether a material interest existed, but that it was not necessary to attempt to assess the benefits or detriments of the proposal to bondholders. It was enough that a bondholder had a pecuniary stake or right in the proposal. (It was not clear whether the overall effects of the proposal would be positive or negative for bondholders.)
- 5.138 In this case:
- 75,000 bonds were owned by Mr Collinge's wife; and
 - 125,000 bonds were owned by a family trust.
- 5.139 The judge concluded that it was difficult to see the value of the bonds as insignificant. However, the more critical question was whether Mr Collinge actually had an interest in them.
- 5.140 Mr Collinge's wife's bonds had been purchased by her, before they were married, out of her own separate funds. Nevertheless, the judge accepted that an interest held by one spouse is capable of creating an interest for the other spouse, and that it did so in this case.
- 5.141 The family trust's bonds were owned for the benefit of Mr Collinge's wife and two of his children. Mr Collinge was not a beneficiary, but until recently had been one of the two trustees. The Court held that it was immaterial whether the conflicting interest belonged to him beneficially or as a trustee for others. Mr Collinge in fact resigned as a trustee shortly before the court case, but the Court held that a last-minute divestment did not necessarily cure a conflict of interest. The Court also considered it relevant that Mr Collinge was settlor of the trust, and as settlor he retained the power to appoint new trustees. In addition, Mr Collinge had signed the application forms for both sets of bonds, he had provided his own bank account for interest payments from the family trust's bonds, and in other contexts he had previously declared an interest in one or both sets of bonds.
- 5.142 Therefore, despite Mr Collinge having neither legal nor beneficial ownership of the bonds at the time of the decision, the Court was prepared to give greater weight to the surrounding circumstances, which suggested that Mr Collinge in fact had a fair measure of influence over the administration of the family trust.
- 5.143 This case shows how indirect connections can still sometimes give rise to a pecuniary interest.

Application of the Members' Interests Act to civil union and de facto partners

- 5.144 The Members' Interests Act provides that, if a member's spouse has a pecuniary interest in a matter, the member is deemed to have the same interest.⁵
- 5.145 Those deeming provisions are about to be extended, so that they also include the pecuniary interests of a member's civil union or de facto partner.⁶
- 5.146 This amendment comes into force on 13 October 2007 (that is, at the date of the next local government elections).⁷

Reform of the Members' Interests Act

- 5.147 In 2005, we published a discussion paper about options for reforming the Members' Interests Act.⁸ We consider that the Members' Interests Act is in need of an overhaul, and that a modern restatement of the law is desirable.
- 5.148 We discussed this in an article in our corresponding report in 2006, and noted that the Department of Internal Affairs had included the topic on its policy work programme for 2005/06.⁹
- 5.149 Disappointingly, little progress has been made on that policy work. We understand that the Department has deferred its work on the Members' Interests Act because of other priorities. We urge the Department to return to this area as soon as it reasonably can.

⁵ Sections 3(2), 3(2A), 6(2), and 6(2A).

⁶ See section 4 of the Relationships (Statutory References) Act 2005.

⁷ Ibid, section 4(3).

⁸ *The Local Authorities (Members' Interests) Act 1968: Issues and options for reform*, ISBN 0-478-18138-8 – also available on our website at www.oag.govt.nz/2005/members/.

⁹ *Local government: Results of the 2004-05 audits*, parliamentary paper B.29[06b], part 5 – also available on our website at www.oag.govt.nz/local-govt/2004-05/part5.htm.

Part 6

Performance audit reports and good practice guides issued in 2005/06 and 2006/07

6.1 Local authority codes of conduct

- 6.101 Since 1 July 2003, each local authority has been legally required to adopt a code of conduct for its members.
- 6.102 In 2006, we carried out a review of codes of conduct and reported to Parliament.¹ We looked at how local authorities have implemented the requirement to have a code of conduct, and how codes of conduct are being used by local authorities, their members, and the public.
- 6.103 Our report noted that local authorities have considerable discretion in how they design and use their code of conduct. Depending on a local authority's objectives, a code can be an aspirational statement or a rulebook. Local authorities can choose whether to have their code simply as part of their governance framework, or to create mechanisms for enforcing compliance with their code.
- 6.104 The report noted that, overall, local authorities' compliance with their legal obligations is high, and that local authorities see value in having a code as a governance mechanism or as a compliance tool. The variety of topics and processes addressed across all 85 local authorities is generally useful. Local authorities can learn from looking at each other's codes.
- 6.105 We hope that our report will enhance general understanding of codes of conduct and assist local authorities to address conduct issues in the future.

¹ *Local authority codes of conduct*, ISBN 0-478-18161-2 – also available on our website at www.oag.govt.nz/2006/conduct/.

6.2 Residential rates postponement

- 6.201 Since the Local Government Act 2002 (the Act) was introduced, local authorities have adopted a variety of rates postponement policies. The Act allows local authorities to determine their own rates postponement policies – unlike previous legislation, which specified the grounds on which postponement could be offered. Under rates postponement policies, local authorities allow ratepayers to defer paying their annual rates until a future date.
- 6.202 In June 2006, we published *Residential rates postponement*,¹ which examined two kinds of rates postponement policies – optional rates postponement and postponement on the grounds of hardship. Both these policies apply only to residential ratepayers. Postponement on the grounds of hardship was allowed under previous legislation. However, optional rates postponement is a new development, enabled by the Act.
- 6.203 A group of local authorities and a private management company have formed a consortium to offer optional rates postponement. At the time we published our report, the consortium had 14 member local authorities. All local authorities offering optional rates postponement are part of the rates postponement consortium.
- 6.204 The concept of rates postponement is straightforward, but designing and implementing a rates postponement policy requires local authorities to consider complex legal, ethical, and financial issues. Local authorities need to take into account the interests of ratepayers who may wish to postpone their rates and the interests of other residents.

Why we did the audit

- 6.205 At the moment, the total number of ratepayers postponing their rates under either policy is very small. However, optional rates postponement is being promoted to local authorities around the country, and the number of ratepayers postponing their rates is expected to increase. For this reason, we considered an audit on rates postponement was timely.

Our findings

- 6.206 Local authorities' rates postponement policies are generally well designed, and local authorities are administering them in the interests of ratepayers.
- 6.207 Optional rates postponement allows ratepayers who are asset rich but income poor to use the equity in their properties to guarantee the future payment of rates. These ratepayers can then use the income they would have spent on rates for other purposes.

1 ISBN 0-478-18169-8.

- 6.208 Hardship policies are designed to relieve extreme financial hardship. However, we note that eligibility criteria for these policies are generally fairly strict, and only a very small number of ratepayers take them up.
- 6.209 The decision-making and consultation process followed by councils that have adopted optional rates postponement policies adequately complied with the provisions in the Act. The consortium as a whole has done a good job of assessing and managing the risks associated with offering optional rates postponement.
- 6.210 Overall, the structure and management of the rates postponement consortium seems reasonable. However, there are some areas that will need to be refined as the number of local authorities and ratepayers participating in optional rates postponement grows.
- 6.211 We have identified some areas where local authorities could improve their rates postponement policies and procedures. For example, it would be good practice for local authorities offering rates postponement on the grounds of hardship to advise applicants to seek independent advice before they sign up for rates postponement. We included further specific recommendations in our report.

6.3 Collaboration in roading

- 6.301 Transit New Zealand and three local authorities have entered into different types of collaborative agreement:
- Transit has delegated authority for managing state highways in the Rotorua District to Rotorua District Council, with some limitations.
 - Marlborough District Council has agreed that Transit New Zealand will manage local roads on its behalf, and a local Transit New Zealand office called “Marlborough Roads” manages local roads and state highways in the district.
 - Western Bay of Plenty District Council and Transit New Zealand have jointly let a 10-year performance-based contract for maintaining local roads and state highways in the district.
- 6.302 Our separate report¹ assesses how well these agreements are functioning, and what benefits they are bringing to management of local roads and state highways.
- 6.303 Our report covers other agreements that have been proposed but have not proceeded. We identified lessons from the three agreements that are in place and those that have been proposed but have not proceeded, which Transit New Zealand and other local authorities should find useful when considering opportunities for collaboration in future.

1 *Assessing arrangements for jointly maintaining state highways and local roads*, ISBN 0-478-18183-3.

6.4 Statements of corporate intent

- 6.401 In 1998, we published an article *Statements of Corporate Intent: Are They Working?*¹ That article set out our expectations of statements of corporate intent (SCIs), including recommending changes to some legislation governing SCIs. The article also reviewed, and found variable compliance with, the requirements for SCIs.
- 6.402 We have completed a performance audit to update our 1998 article.² The performance audit examined the application of SCIs for the accountability of public entities and their governance by shareholders. As well as council-controlled organisations (including council-controlled trading organisations), the performance audit reviewed the way that selected port companies, energy companies, State-owned enterprises, and Crown Research Institutes complied with the legislative provisions for SCIs. The performance audit was primarily a “desk-based” documentation review.
- 6.403 We also plan to do a further review to examine the relevance of SCIs for a sample of public entities. We will examine how they produce and report on SCIs and also identify any other accountability methods used or preferred to the role of the SCI.

1 *Third Report for 1998*, Parliamentary paper B.29[98c], pages 99-137.

2 *Statements of corporate intent: Legislative compliance and performance reporting*, ISBN 0-478-18185-x.

6.5 Territorial authority waste management plans

- 6.501 Territorial authorities¹ have an important role in managing waste. The Local Government Act 1974 required all territorial authorities to formally adopt a waste management plan to provide for waste management in the district.
- 6.502 In May 2007, we published a report² of a performance audit that looked at territorial authority waste management plans and practices. The audit examined:
- whether all territorial authorities had adopted a waste management plan and how the plan provided for the management of solid waste in the district;
 - how six selected territorial authorities were implementing their waste management plans; and
 - three case studies, looking at particular approaches to managing solid waste.
- 6.503 We found that, although all territorial authorities had prepared waste management plans, some of the plans were out of date or did not contain all the information we expected. We are concerned the plans would not be useful in guiding local authority decisions about waste management.
- 6.504 The six territorial authorities we reviewed in detail were progressively implementing their plans. Several of them had improved their plans and practices through self-review and by updating their plans.
- 6.505 The waste management methods these six territorial authorities had implemented favoured waste diversion and waste disposal activities, rather than waste reduction.
- 6.506 The three case studies highlight the need for territorial authorities to carefully evaluate the requirements and the implications of pursuing particular waste management practices before implementing them. Most of the territorial authorities we looked at had done this.
- 6.507 As part of the performance audit, we prepared guidance for territorial authorities preparing waste management plans and considering some specific waste management practices. We have included this guidance in our report.

1 Territorial authorities are city and district councils – they do not include regional councils.

2 *Waste management planning by local authorities*, ISBN 0-478-18175-2.

6.6 Controlling sensitive expenditure: Guidelines for public entities

- 6.601 Spending by a public entity that could be seen to give some private benefit to a staff member, such as overseas travel, can be controversial. We call this type of spending “sensitive expenditure”. Although it may be perfectly justified, its potential sensitivity means that careful decision-making is needed.
- 6.602 Public entities’ sensitive expenditure decisions have featured in a number of our past reports, as well as in the many enquiries we receive. There is a need for general guidelines to help public sector leaders and senior managers. These people, who should “set the tone at the top”, have a major influence on an entity’s sensitive expenditure.
- 6.603 In February 2007, we published *Controlling sensitive expenditure: Guidelines for public entities*,¹ which outlines the principles applicable to sensitive expenditure and an organisational approach that embraces leadership from the top of the organisation and having suitable sensitive expenditure policies and procedures. It also provides practical guidance on specific types of sensitive expenditure.
- 6.604 Ultimately, public entities are responsible for their own sensitive expenditure controls and decisions, with good judgement required when making decisions. Good controls and good judgement should enable entities’ sensitive expenditure to withstand Parliamentary and public scrutiny.
- 6.605 The guidelines are our view of good practice that public entities should use to control sensitive expenditure. The guidelines outline expectations and guidance that we may use in future when carrying out performance audits or inquiries under section 16 or section 18 of the Public Audit Act 2001 or in annual financial audits.

1 ISBN 0-478-18171-X

6.7 Land information management systems

- 6.701 In our report, *Local government: Results of the 2004-05 audits*,¹ we noted that we proposed a performance audit that would review the systems, policies, and procedures for recording information for Land Information Memoranda (LIMs).
- 6.702 At that time, we noted that there had been anecdotal reports of concerns about the approaches to, and the quality of, recording information for LIMs. We considered that there was potential for a performance audit based on the expectations detailed in the Society of Local Government Managers (SOLGM) legal compliance modules² and relevant case law.
- 6.703 In mid-2006, we did preliminary scoping in this area and found that the anecdotal concerns that had been raised with us were not widespread. Accordingly, we decided not to proceed with a performance audit in this area.

1 Parliamentary paper B.29[06b], ISBN 0-478-18159-0.

2 SOLGM has developed a legal compliance module on land information memoranda as part of its legal compliance programme.

Part 7

Proposed performance audits and good practice guides

7.1 Local government consultation and decision-making

- 7.101 The Local Government Act 2002 (the Act) provides principles-based decision-making obligations that local authorities are endeavouring to understand and embed into management processes. Local authorities face risks if their decisions can be shown to be unreasonable or if they have not observed due processes for decision-making and consultation.
- 7.102 After the Act was passed, local government sector organisations and the Department of Internal Affairs produced a series of high-level guidance material. A need for more specific advice has emerged as local authorities have gained more experience in implementing the Act.
- 7.103 Although there has been no significant change in case law for some years, good practice is evolving and legislation changes have reinforced the public's expectation of greater levels of consultation.
- 7.104 We have dealt with a number of complex ratepayer enquiries about local authority decision-making obligations and consider that we now have enough experience to distil and reflect good practice emerging from the sector.
- 7.105 We brought together a working group of local government staff and advisers to provide sector input into identifying the main issues and examples of good practice. We expect to publish a report in July 2007 that will reflect what local government practitioners consider to be good practice in decision-making and consultation.
- 7.106 In practice, the responsibility for decision-making and consultation lies with the leaders and senior managers of local government. We expect our guidance to be useful for the sector alongside other material such as that produced by the Society of Local Government Managers and Local Government New Zealand.

7.2 Procurement

- 7.201 In June 2001, we published *Procurement – A Statement of Good Practice*.¹ This publication has been well received by public entities. However, local authorities and the entities under their control were excluded from the scope of this statement.
- 7.202 We are updating this statement to reflect changes in good practice in procurement over the past five and a half years.
- 7.203 The updated guidelines will be designed for use by all public sector entities, including local authorities and entities under their control. Late in 2006, we surveyed all local authority chief executives and chief financial officers so that we could take local authority needs and requirements into account in our update.
- 7.204 As with the previous statement, the updated statement will not be a set of rules and will not be a substitute for local authorities developing and maintaining their own procurement policies and guidelines. Rather, we intend that the statement be used as a benchmark by public entities against which to measure their own procurement policies and procedures, and as a guide to the content of their own procurement manual.
- 7.205 We intend to publish the updated statement later in 2007.

1 Available at www.oag.govt.nz/2001/procurement/.

7.3 Liquor licensing

- 7.301 Local authorities exercise a range of important regulatory powers under various pieces of legislation. One of these is the Sale of Liquor Act 1989 (the Liquor Act), which makes local authorities responsible for issuing licences for the sale or supply of liquor to the public. The system of regulatory control established by the Liquor Act is designed to help reduce liquor abuse.
- 7.302 In their capacity as District Licensing Agencies, local authorities must consult and collaborate with other agencies that have their own statutory powers under the Liquor Act – principally the Police and Medical Officers of Health. The audit will examine how local authorities work with these regulatory partners.
- 7.303 Through the exercise of its liquor licensing powers, each local authority affects the safety and well-being of its community. The Liquor Act requires each local authority to discharge specific statutory responsibilities, but also gives each local authority, in performing that role, some scope to reflect the particular expectations of its own community. We will examine how each local authority gives effect to those expectations through its liquor licensing policies and practices.
- 7.304 The audit will examine liquor licensing activities in a representative selection of local authorities. We expect to provide assurance that, in the selected authorities, policies and practices comply with the requirements of the Liquor Act and that local authorities are performing this function consistently, effectively, and efficiently. The audit will also identify issues facing the sector, promote good practice, and highlight areas for improvement.

7.4 Audit committees

- 7.401 We will publish a good practice guide for audit committees in the public sector later in 2007.
- 7.402 The guide will focus on the principles for the constitution and activities of an audit committee. It will set out expectations and good practice guidance and will address the learnings identified in a number of case studies of current public sector audit committees throughout the country.
- 7.403 The guide will also take account of differences between different governance models – including central government departments, entities with appointed boards (for example, Crown entities), entities with elected governing bodies (for example, local authorities and district health boards), and Crown companies and state-owned enterprises – and the effect of these different governance models on the audit committee structure.

Appendix

Details of the non-standard audit reports issued

These details relate to non-standard audit reports issued during the 2006 calendar year.

Adverse opinions

Southland Museum and Art Gallery Trust Board Incorporated^a

Financial statements year ended: 30 June 2006

We disagreed with the Trust Board not recognising the museum collection assets of the Museum Trust, nor the associated depreciation expense, in the Museum Trust's financial report. These are departures from Financial Reporting Standard No. 3: *Accounting for Property, Plant and Equipment*, which requires museum collection assets not previously recognised to be recognised at fair value and depreciated. We disagreed with the Trust Board not preparing a statement of intent for the year beginning 1 July 2005, as required by the Local Government Act 2002, and therefore not preparing performance information that fairly reflects its service achievements. We also noted a breach of the Local Government Act 2002 because the Trust Board did not adopt a statement of intent for the year beginning 1 July 2006. However, the financial report of the Museum Trust fairly reflected the cash flows.

The Canterbury Museum Trust Board

Financial statements year ended: 30 June 2005

We disagreed with the Trust Board not recognising the museum collection assets of the Museum Trust, nor the associated depreciation expense, in the Museum Trust's financial report. These are departures from Financial Reporting Standard No. 3: *Accounting for Property, Plant and Equipment*, which requires museum collection assets not previously recognised to be recognised at fair value and depreciated. However, the financial report of the Museum Trust fairly reflected the cash flows and service performance.

Otago Museum Trust Board^b

Financial statements year ended: 30 June 2006

We disagreed with the Trust Board not recognising the museum collection assets of the Museum Trust, nor the associated depreciation expense, in the Museum Trust's financial report. These are departures from Financial Reporting Standard No. 3: *Accounting for Property, Plant and Equipment*, which requires museum collection assets not previously recognised to be recognised at fair value and depreciated. However, the financial report of the Museum Trust fairly reflected the cash flows and service performance.

Hawke's Bay Cultural Trust^c

Financial statements year ended: 30 June 2006

We disagreed with the Trustees not recognising the collection assets of the Cultural Trust, nor the associated depreciation expense, in the Cultural Trust's financial report. These are departures from Financial Reporting Standard No. 3: *Accounting for Property, Plant and Equipment*, which requires collection assets not previously recognised to be recognised at fair value and depreciated.

Wairarapa Cultural Trust^d

Financial statements year ended: 30 June 2006

We disagreed with the Trustees not recognising the general collection assets, nor the associated depreciation expense, in the Trust's financial report. These are departures from Financial Reporting Standard No. 3: *Accounting for Property, Plant and Equipment*, which requires general collection assets not previously recognised to be recognised initially at fair value and depreciated. In addition, we were unable to verify material revenues due to limited control over those revenues before they were recorded. However, the financial report fairly reflected the Trust's cash flows.

- a Council-controlled organisation controlled by Gore District Council, Invercargill District Council, and Southland District Council.
- b Council-controlled organisation controlled by Dunedin City Council.
- c Trust controlled by Hastings District Council and Napier City Council.
- d Trust controlled by Masterton District Council, Carterton District Council, South Wairarapa District Council, and Masterton Trust Lands Trust.

Disclaimer of opinion**Charleston Goldfields Hall Board**

Financial statements for the three-year period ended: 30 June 2005

Our audit was limited because the Board did not prepare its annual financial report in accordance with the Public Finance Act 1989, which requires its financial report to comply with generally accepted accounting practice in New Zealand. As a result, we were unable to form an opinion on the financial report. Our audit was also limited because we were unable to verify certain revenue because of limited control over the receipt of that revenue. In addition, the Board did not maintain appropriate accounting records to support some payments.

“Except-for” opinions**Hutt City Council and group**

Financial statements year ended: 30 June 2006

We disagreed with the city council and group not recognising the land and buildings and infrastructural assets it owns in the Statement of Financial Position at fair value at 30 June 2006. This is a departure from Financial Reporting Standard No. 3: *Accounting for Property, Plant and Equipment*. The departure occurred because the city council and group did not comply with its own accounting policies, which state that land and buildings and infrastructural assets are recognised at fair value. There were reliable indicators the land and buildings and infrastructural assets were recorded in the financial statements at a carrying value that is materially different from its fair value. However, the financial report of the city council and group fairly reflected the results of operations, cash flows, and service performance.

Montford Trimble Foundation^e

Financial statements year ended: 30 June 2005

We disagreed with the Foundation not having performance targets and other measures for measuring performance in its Annual Plan for the year beginning 1 July 2004, as required

by the Local Government Act 2002, and therefore not being able to prepare performance information that fairly reflects its service performance. However, the financial report of the Foundation fairly reflected the financial position, results of its operations, and cash flows.

Advance Whangarei Limited^f

Financial statements year ended: 30 June 2005

We disagreed with the company not preparing and reporting on performance information that gives a true and fair view of its service achievements for the year ended 30 June 2005, as required by the Local Government Act 2002. However, the financial report of the company gave a true and fair view of the financial position, results of its operations, and cash flows. We noted a breach of the Local Government Act 2002 because the Board did not adopt a statement of intent for the year beginning 1 July 2005. We also noted the disclosures in the financial report that referred to the going concern assumption appropriately not being used in preparing the financial report because the company was expected to be disestablished and all assets and liabilities vested in the Whangarei District Council.

Hawkes Bay Incorporated^g

Financial statements year ended: 30 June 2005

We disagreed with the Trustees not preparing a statement of intent for the year beginning 1 July 2004, as required by the Local Government Act 2002, and therefore not being able to prepare performance information that fairly reflects its service achievements. However, the financial report of the Trust fairly reflected the financial position and results of its operations.

Tourism Dunedin Trust^h

Financial statements year ended: 30 June 2005

We disagreed with the Trustees not preparing a statement of intent for the year beginning 1 July 2004, as required by the Local Government Act 2002, and therefore not preparing performance information that fairly reflects its service achievements. We also noted a breach of the Local Government Act 2002 because the Trust did not adopt a statement of intent for the year beginning 1 July 2005. However, the financial report of the Trust fairly reflected the financial position and results of its operations.

Waitaki District Health Services Trustⁱ

Financial statements year ended: 30 June 2005 and 30 June 2006

We disagreed with the Trustees not preparing a statement of intent for the years beginning 1 July 2004 and 1 July 2005 respectively, as required by the Local Government Act 2002, and therefore not preparing performance information that fairly reflects its service achievements. We also noted a breach of the Local Government Act 2002 because the Trustees did not adopt a statement of intent for the years beginning 1 July 2005 and 1 July 2006 respectively. However, the financial report of the Trust fairly reflected the financial position and results of its operations.

The Southern Rural Fire Authority

Financial statements year ended: 30 June 2005 and 30 June 2006

We disagreed with the committee not preparing a statement of intent for the years beginning 1 July 2004 and 1 July 2005 respectively, as required by the Local Government Act 2002, and therefore not preparing performance information that fairly reflects its service achievements. We also noted a breach of the Local Government Act 2002 because the committee did not adopt a statement of intent for the years beginning 1 July 2005 and 1 July 2006 respectively. However, the financial report of the Authority fairly reflected the financial position, results of its operations, and cash flows.

Southland Flood Relief Fundⁱ

Financial statements year ended: 30 June 2005 and 30 June 2006

We disagreed with the Trustees not preparing a statement of intent for the years beginning 1 July 2004 and 1 July 2005 respectively, as required by the Local Government Act 2002, and therefore not preparing performance information that fairly reflects its service achievements. We also noted a breach of the Local Government Act 2002 because the Trustees did not adopt a statement of intent for the years beginning 1 July 2005 and 2006 respectively. However, the financial report of the Fund fairly reflected the financial position and results of operations.

Invercargill Community Recreation and Sports Trust^k

Financial statements year ended: 30 June 2006

We disagreed with the Trustees not preparing a statement of intent for the year beginning 1 July 2005, as required by the Local Government Act 2002, and therefore not preparing performance information that fairly reflects its service achievements. We also noted a breach of the Local Government Act 2002 because the Trustees did not adopt a statement of intent for the year beginning 1 July 2006. However, the financial reports of the Trust fairly reflected the financial position and results of its operations.

Whangarei District Airport

Financial statements year ended: 30 June 2006

We disagreed with the committee not preparing a statement of intent for the year beginning 1 July 2005, as required by the Local Government Act 2002, and therefore not preparing performance information that fairly reflects its service achievements. We also noted a breach of the Local Government Act 2002 because the committee did not adopt a statement of intent for the year beginning 1 July 2006. However, the financial report of the airport fairly reflected the financial position and results of its operations.

Southland Regional Heritage Committee

Financial statements year ended: 30 June 2006

We disagreed with the committee not preparing a statement of intent for the year beginning 1 July 2005, as required by the Local Government Act 2002, and therefore not preparing performance information that fairly reflects its service achievements. We also noted a breach of the Local Government Act 2002 because the committee did not adopt a statement of intent for the year beginning 1 July 2006. However, the financial report of the joint committee fairly reflected the financial position, results of its operations, and cash flows.

Ashburton Stadium Complex Trust^l

Financial statements year ended: 30 June 2006

We disagreed with the Board of Trustees not preparing a statement of intent for the year beginning 1 July 2005, as required by the Local Government Act 2002, and therefore not preparing performance information that fairly reflects its service achievements. We also noted a breach of the Local Government Act 2002 because the Board of Trustees did not adopt a statement of intent for the year beginning 1 July 2006. However, the financial report of the Trust fairly reflected the financial position, results of its operations, and cash flows.

North Shore Domain and North Harbour Stadium Trust Board^m

Financial statements year ended: 28 February 2006

We disagreed with the Board of Trustees not preparing a statement of intent for the year beginning 1 March 2005, as required by the Local Government Act 2002, and therefore not preparing performance information that fairly reflects its service achievements. We also noted a breach of the Local Government Act 2002 because the Trust did not adopt a June balance date that was consistent with its parent entity. However, the financial report of the Trust fairly reflected the financial position and results of its operations. In addition, we noted the disclosures in the financial statements that referred to uncertainties surrounding the going concern assumption. The validity of the going concern assumption was dependent on the continued financial support of the Trust's parent entity.

Mackenzie Holdings Limitedⁿ

Financial statements year ended: 30 June 2006

We disagreed with the Board not preparing a statement of intent for the year beginning 1 July 2005, as required by the Local Government Act 2002, and therefore not preparing performance information that gives a true and fair view of its service achievements. We also noted a breach of the Local Government Act 2002 because the Board did not adopt a statement of intent for the year beginning 1 July 2006. However, the financial report of the company fairly reflected the financial position, results of its operations, and cash flows. We noted the disclosures in the financial statements that referred to the going concern assumption appropriately not being used in preparing the financial statements because the company's operations will not be continued under the current structure.

Mapiu Domain Board

Financial statements year ended: 30 June 2005

The Board did not comply with section 41(2)(k) of the Public Finance Act 1989, because it did not include budget figures for the year in the Statement of Financial Position. In addition, our audit was limited because we were unable to verify certain revenue due to limited control over receipt of that revenue. However, the financial report of the Domain Board fairly reflected the financial position, results of its operations, and cash flows.

Waste Disposal Services^o

Financial statements year ended: 30 June 2006

We disagreed with the accounting treatment of the landfill improvements asset. The asset was overstated because capitalisation of the closure and post-closure costs in 2002 was not applied back over the periods to which they related and therefore depreciation for previous periods was understated. This is a departure from FRS-15: *Provisions, Contingent Liabilities and Contingent Assets*, which requires that full liability be recognised at the point that the obligation is established. However, the financial report of the joint venture fairly reflected the cash flows and its service performance.

Transwaste Canterbury Limited and Group^p

Financial statements year ended: 30 June 2006

Our audit was limited because the financial report of the company's subsidiary had not previously been audited. As a result, we were unable to form an opinion on the comparative figures presented for the group. However, the financial report of the company and group gave a true and fair view of the financial position, results of its operations, cash flows, and its service performance for the current year.

Tauranga Art Gallery Trust^e*Financial statements year ended: 30 June 2006*

Our audit was limited because there were limited controls over donation revenue before it was recorded in the previous financial year. As a result, we were unable to form an opinion on the comparative information presented for the Trust. However, the financial report of the Trust fairly reflected the financial position, results of its operations, and its service performance for the current year.

North Canterbury Fish & Game Council*Financial statements year ended: 31 August 2006*

Our audit was limited because there were limited controls over license revenue before it was recorded in the previous financial year. As a result, we were unable to form an opinion on the comparative information presented for the council. However, the financial report of the council fairly reflected the financial position, results of its operations, cash flows, and its service performance for the current year.

Fish and Game New Zealand – West Coast Region*Financial statements year ended: 31 August 2006*

Our audit was limited because there were limited controls over license revenue before it was recorded in the previous financial year. As a result, we were unable to form an opinion on the comparative information presented for the council. However, the financial report of the council fairly reflected the financial position, results of its operations, cash flows, and its service performance for the current year.

Waitemata Infrastructure Limited^f*Financial statements year ended: 30 June 2006*

Our audit was limited because the financial report of the company had not previously been audited. As a result, we were unable to form an opinion on the comparative information. However, the financial report of the company gave a true and fair view of its financial position and the results of its operations for the current year.

Nelson Creek Recreation Reserve Board*Financial statements year ended: 30 June 2003, 30 June 2004 and 30 June 2005*

Our audit was limited because we were unable to verify certain revenue due to limited control over the receipt of that revenue.

Richmond Pool Charitable Trust^g*Financial statements year ended: 30 June 2005*

Our audit was limited because we were unable to verify certain revenue due to limited control over the receipt of that revenue.

Carparking Joint Venture^g*Financial statements year ended: 30 June 2006*

Our audit was limited because we were unable to verify certain revenue due to limited control over the receipt of that revenue.

^e Trust controlled by Masterton District Council.

^f Council-controlled organisation controlled by Whangarei District Council.

^g Council-controlled organisation controlled by Hawkes Bay Regional Council, Hastings City Council and Napier City Council.

- h Council-controlled organisation controlled by Dunedin City Council.
- i Council-controlled organisation controlled by Waitaki District Health Services Limited.
- j Council-controlled organisation controlled by Gore District Council.
- k Council-controlled organisation controlled by Invercargill City Council.
- l Council-controlled organisation controlled by Ashburton City Council.
- m Council-controlled organisation controlled by North Shore City Council.
- n Council-controlled organisation controlled by MacKenzie District Council.
- o Council-controlled organisation controlled by Manukau City Council.
- p Council-controlled organisation controlled by Christchurch City Council.
- q Council-controlled organisation controlled by Tauranga City Council.
- r Council-controlled organisation controlled by Auckland City Council.
- s Council-controlled organisation controlled by Tasman District Council.
- t Council-controlled organisation controlled by Christchurch City Council.

Explanatory paragraphs – emphasis of matter

Hawkes Bay Airport Authority

Financial statements year ended: 30 June 2005 and 30 June 2006

We noted the disclosures in the financial report that outlined that the financial report had been prepared on a going concern basis notwithstanding the fact that the Authority is planning to terminate. The disclosures outline that a company would be established to operate the airport in place of the Authority.

Lower Kokatahi Hall

Financial statements year ended: 30 June 2003

We noted the disclosures in the financial report that referred to the going concern assumption appropriately not being used in preparing the financial report because the assets and liabilities of the Board were vested in the Westland District Council on 26 June 2003. No significant transactions took place between this date and balance date.

Otara Licensing Trust

Financial statements year ended: 31 March 2005

We noted the disclosures in the financial report that referred to the going concern assumption appropriately not being used in preparing the financial report because the Trust was placed in liquidation.

Nga Tapuwae Community Facilities Trust

Financial statements year ended: 30 June 2004 and 30 June 2005

We noted the disclosures in the financial report that referred to the going concern assumption appropriately not being used in preparing the financial report because the Trust was expected to be wound up in 2006.

Papakura District Enterprise Board^a

Financial statements year ended: 30 June 2005 and period ended: 27 June 2006

We noted the disclosures in the financial report that referred to the going concern assumption appropriately not being used in preparing the financial report because the Trust was expected to be disestablished and all assets and liabilities vested in the Papakura District Council.

Invercargill Licensing Trust Sports Foundation*Financial statements year ended: 31 March 2006*

We noted the disclosures in the financial report that referred to the going concern assumption appropriately not being used in preparing the financial report because the Trust was expected to be disestablished following 31 March 2006 to meet the requirements of the Gambling Act 2003.

Rotorua District Council Sinking Fund Commissioners*Financial statements year ended: 30 June 2006*

We noted the disclosures in the financial report that referred to the going concern assumption appropriately not being used in preparing the financial report because the sinking fund was expected to be wound up in the next 12 months.

Whakatane District Council Sinking Fund Commissioners*Financial statements year ended: 30 June 2006*

We noted the disclosures in the financial report that referred to the going concern assumption appropriately not being used in preparing the financial report because the sinking fund was expected to be wound up in the next 12 months.

Bay of Plenty Regional Council Sinking Fund Commissioners*Financial statements year ended: 30 June 2006*

We noted the disclosures in the financial report that referred to the going concern assumption appropriately not being used in preparing the financial report because the sinking fund was expected to be wound up in the next 12 months.

Far North District Council Sinking Fund Commissioners*Financial statements year ended: 30 June 2006*

We noted the disclosures in the financial report that referred to the going concern assumption appropriately not being used in preparing the financial report because the sinking fund was expected to be wound up in the next 12 months.

Cooks Gardens Trust Board*Financial statements year ended: 30 June 2006*

We noted the disclosures in the financial report that referred to the vesting of some of the Board's assets in Wanganui District Council.

u Council-controlled organisation controlled by Papakura District Council.

Explanatory paragraphs – breaches of law**Taupo Airport Authority***Financial statements year ended: 30 June 2006*

We noted a breach of the Local Government Act 2002 because the Airport Advisory Committee did not adopt a statement of intent for the year ended 30 June 2006. However, the Airport Advisory Committee was able to report performance information against performance targets.

Data Capture Systems Ltd^v

Financial statements year ended: 30 June 2006

We noted a breach of the Local Government Act 2002 because the Board of Directors did not adopt a statement of intent for the year beginning 1 July 2005. However, the Board of Directors were able to report performance information against performance targets.

Taupo District Economic Development Advisory Board^w

Financial statements year ended: 30 June 2006

We noted a breach of the Local Government Act 2002 because the Board members did not adopt a statement of intent for the year beginning 1 July 2005. The breach occurred because the entity was established in April 2006 and it focused on the Board's ongoing role as well as preparing a statement of intent for the year beginning 1 July 2006.

Mangere Cemetery Board

Financial statements year ended: 31 March 2003, 31 March 2004, 31 March 2005, and 31 March 2006

We noted a breach of the Burial and Cremation Act 1964 because the Cemetery Trustees engaged in the business of retailing headstones.

Pihama Cemetery Trustees

Financial statements year ended: 31 March 2005

We noted a breach of the Burial and Cremation Act 1964 because the Cemetery Trustees provided a loan to another local organisation.

Warea Cemetery Trustees

Financial statements year ended: 31 March 2005

We noted a breach of the Burial and Cremation Act 1964 because the Cemetery Trustees provided a grant to another local organisation.

^v Council-controlled organisation controlled by Taupo District Council.

^w Council-controlled organisation controlled by Taupo District Council.

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