

## Powers retained by Council that are impacted by the Local Government Act 2002 Amendment Act (No 3) 2014

Section of Act	Power, function, duty	Comments
<b>Preliminary provisions - Exempted organisations</b>		
7(6), 7(7)	Local authority must review any exemption it has granted within a three-yearly cycle and can revoke an exemption at any time	Minor amendment to the wording of s7(6)
<b>Co-ordination of responsibilities of local authorities - Triennial agreements</b>		
15(1), 15(2)	All local authorities within a region must, no later than 1 March after each triennial general election of members, enter into an agreement covering the period until the next triennial general election of members that includes protocols for communication and co-ordination among the local authorities, a statement of the process by which the local authorities will comply with s16 in respect of proposals for new regional council activities, and processes and protocols through which all local authorities can participate in identifying, delivering and funding facilities and services of significance to more than 1 district.	Provision amended. Requirements for what must be included in the agreement amended (text in bold inserted)
15(4)(3)	<del>Agree to amend the protocols for communication and co-ordination that have been set out in the vary the triennial agreement</del>	Provision amended. Largely unchanged - minor amendment to the wording to take into account new inclusions (text in bold inserted, text struck out deleted) (note, section reference has changed)
15(6), 15(7)	(6) Must, if a decision by it is significantly inconsistent with, or is expected to have consequences that will be significantly inconsistent with the agreement under s15 that is currently in force within the region, when making the decision, clearly identify- <ul style="list-style-type: none"> <li>(a) the inconsistency; and</li> <li>(b) the reasons for the inconsistency; and</li> <li>(c) any intention of the local authority to seek an amendment to the agreement under</li> </ul>	These are new provisions. It is proposed that these powers be retained by Council.

	<p>subsection (4)</p> <p>(7) Must, as soon as practicable after making any decision to which subsection (6) applies, give to each of the other local authorities within the region notice of the decision and of the matters specified in that subsection</p>	
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#### Co-ordination of responsibilities of local authorities - Significant new activities proposed by regional council

16(1), 16(2)	Where a Regional Council, or a Regional Council controlled organisation, proposes to undertake a significant new activity that one or more territorial authorities within the region are already undertaking (or intend to undertake) the Regional Council must advise all the territorial authorities within its region and the Minister of the proposal and the reasons for it and it must include the proposal in <del>its draft long-term council community plan</del> the consultation document referred to in s93A	Minor amendment to s16(2) to take into account new consultation provisions
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#### Co-ordination of responsibilities of local authorities - Transfer of responsibilities

17(1)	Regional Council may transfer 1 or more of its responsibilities (other than a responsibility, duty or legal obligation <del>that may be transferred under section 33 of the Resource Management Act 1991 conferred by or under any other Act</del> ) to a territorial authority in accordance with this section	Minor amendment to the wording of this provision.
17(3)(a)	A transfer under s17(1) must be made by agreement between the local authorities concerned and may be on such terms and conditions as are agreed	Provision unchanged but section reference amended
<del>17(3)(b)</del>	<del>A transfer under s17(1) may be — by agreement — either a substantive transfer of responsibilities, or a delegation of the undertaking of responsibilities with the transferring local authority remaining responsible for the exercise of those responsibilities</del>	Provision deleted, but new s17(8) similar
17(4)	<p>A Regional Council can only accept the transfer of a power from a territorial authority in accordance with s17(2) if it has:</p> <p><del>(i) included the proposal in its annual plan or draft long-term council community plan; or</del></p> <p><del>(ii) used the special consultative procedure</del></p> <p>And if in all cases it has given prior notice to the Minister of the proposal</p> <p>is satisfied, following consultation in accordance with s82, that the benefits of the proposed transfer to its district or region will outweigh any negative impacts of the proposal</p>	Provision amended to take into account new consultation provisions

17(4A)	Must notify the Minister of its intention to transfer a responsibility or accept a transfer of responsibility under section 17	This is a new provision. It is proposed that this power should be retained by Council.
17(8)	A local authority may: <ul style="list-style-type: none"> <li>(a) delegate the exercise of any responsibility to another local authority; or</li> <li>(b) enter into a contractual agreement with another local authority for the performance of any activity or function</li> </ul>	This is a new provision. Similar to repealed section 17(4)(b) which was previously retained by Council. It is proposed that this power be retained by Council.

#### Co-ordination of responsibilities of local authorities – Delivery of services (new section)

17A	Must review the cost effectiveness of current arrangements for meeting the needs of communities within its district or region for good-quality local infrastructure, local public services, and performance of regulatory functions.	This is a new provision. It is proposed that this power be retained by Council.
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#### Council-controlled organisations and council organisations - Consultation required before council-controlled organisation established

56(1)	Local authority may establish, or become a shareholder in, a council controlled organisation, subject to <del>the approval of such a proposal in accordance with the special consultative procedure</del> undertaking consultation in accordance with s82	Provision amended to take into account new consultation provisions
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#### Purpose of local government – Significance and Engagement Policy (new section)

76AA(1)	Local authority must adopt a policy setting out— <ul style="list-style-type: none"> <li>(a) that local authority's general approach to determining the significance of proposals and decisions in relation to issues, assets, and other matters; and</li> <li>(b) any criteria, or procedures that are to be used by the local authority in assessing the extent to which issues, proposals, assets, decisions, or activities are significant or may have significant consequences; and</li> <li>(c) how the local authority will respond to community preferences about engagement on</li> </ul>	This is a new provision. It is proposed that this power be retained by Council.
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	decisions relating to specific issues, assets, or other matters, including the form of consultation that may be desirable; and (d) how the local authority will engage with communities on other matters.	
76AA(4)	May amend the Significance and Engagement Policy from time to time	This is a new provision. It is proposed that this power be retained by Council.
76AA(5)	Local authority must, when adopting or amending a Significance and Engagement Policy, consult in accordance with s82 unless it considers on reasonable grounds that it has sufficient information about community interests and preferences to enable the purpose of the policy to be achieved	This is a new provision. It is proposed that this power be retained by Council.

#### Consultation – Information requirements for consultation required under this Act (new section)

82A	Must (if required to consult in accordance with, or using a process or a manner that gives effect to, the requirements of section 82), for the purposes of section 82(1)(a) and (c), make the information listed in this section publicly available and, in the case of consultation on an annual plan under s95(2), prepare and adopt a consultation document that complies with section 95A (rather than subsection 2)).	This is a new provision. It is proposed that this power be retained by Council.
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#### Consultation – Special consultative procedure

83(1)	Where a local authority is required to use the special consultative procedure, it must <del>(a) prepare a statement of proposal and a summary of the information contained in the proposal</del> <del>(b) include the statement of proposal on the agenda for a meeting of the local authority</del> <del>(c) make the statement of proposal available for public inspection at the principal public office of local authority and such other places as the local authority considers necessary in order to provide all ratepayers and residents of the district with reasonable access to that statement</del> <del>(d) distribute in accordance with section 89(c) the summary of the information contained in the statement of proposal</del> <del>(e) give public notice, and such other notice as the local authority considers appropriate, of the proposal and the consultation being undertaken</del> <del>(f) include in the public notice a statement about how persons interested in the proposal may obtain the summary of information about the proposal and may inspect the full proposal</del>	Provision amended to include new consultation provisions
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	<p><del>(g) include in the public notice a statement of the period within which submissions on the proposal may be made to the local authority</del></p> <p><del>(h) ensure that any person who makes a submission on the proposal within that period is sent a written notice acknowledging receipt of that person's submission and is given a reasonable opportunity to be heard by the local authority (if that person so requests)</del></p> <p><del>(i) ensure that the notice given to a person under paragraph (h)(i) contains information advising that person of that person's opportunity to be heard and explaining how that person may exercise that person's opportunity to be heard</del></p> <p><del>(j) ensure that, except as otherwise provided by Part 7 of the Local Government Official Information and Meetings Act 1987, every meeting at which submissions are heard or at which the local authority, community board, or committee deliberates on the proposal is open to the public</del></p> <p><del>(k) subject to the Local Government Official Information and Meetings Act 1987, make all written submissions on the proposal available to the public</del></p> <p>(a) prepare and adopt:</p> <p>(i) a statement of proposal</p> <p>(ii) if it considers it necessary to enable public understanding of the proposal, a summary of the information contained in the statement of proposal (the summary must comply with s83AA)</p> <p>(b) ensure that the following is publicly available:</p> <p>(i) the statement of proposal; and</p> <p>(ii) a description of how the local authority will provide persons interested in the proposal with an opportunity to present their views to the local authority in accordance with s82(1)(d); and</p> <p>(iii) a statement of the period within which the views on the proposal may be provided to the local authority (the period being not less than 1 month from the date the statement is issued); and</p> <p>(c) make the summary of the information contained in the statement of proposal prepared in accordance with paragraph (a)(ii) (or the statement of proposal, if a summary is not prepared) as widely available as reasonably practicable as a basis for consultation; and</p> <p>(d) provide an opportunity for persons to present their views to the local authority in a manner that enables spoken (or New Zealand sign language) interaction between the person and the local authority or its representatives to whom an appropriate delegation</p>	
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	<p>has been made in accordance with Schedule 7; and</p> <p>(e) ensure that any person who wishes to present his or her views to the local authority or its representatives as described in paragraph (d)</p> <p>(i) is given a reasonable opportunity to do so; and</p> <p>(ii) is informed about how and when he or she may take up that opportunity</p>	
83(AA)(b)	Local authority must determine the form to be taken by a summary of information contained in a statement of proposal	This is a new provision. Similar to s89(b) (below) which has been repealed. It is proposed that this power be retained by Council.,

#### Consultation - Summary of information

89(b)	<del>Local authority must determine the form to be taken by a summary of the information contained in a statement of proposal</del>	Provision repealed. New s83AA(b) (above) confers the same power.
89(c)	<del>Local authority may determine the manner in which a summary of the information contained in a statement of proposal is to be distributed</del>	Provision repealed. Now prescribed by s83(1)(c)

#### Consultation - Policy on significance

90(1)	<p>Local authority must adopt a policy setting out:</p> <p>(a) <del>that local authority's general approach to determining the significance of proposals and decisions in relation to issues, assets, or other matters; and</del></p> <p>(b) <del>any thresholds, criteria, or procedures that are to be used by the local authority in assessing the extent to which issues, proposals, decisions, or other matters are significant</del></p>	Provision repealed. The Policy on Significance has been replaced by a Significance and Engagement Policy (s76AA)
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#### Planning – Form and manner of presentation of consultation document (new section)

93F	Local authority must ensure that the contents of the consultation document are presented in a form and manner that enables the consultation document to achieve its purpose	This is a new provision. It is proposed that this power be retained by Council.
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**Planning – Information to be adopted by local authority in relation to long-term plan and consultation document (new section)**

93G	<p>Before adopting a consultation document under s93A, local authority must prepare and adopt information that-</p> <ul style="list-style-type: none"> <li>(a) is relied on by the content of the consultation document adopted under s93A; and</li> <li>(b) is necessary to enable the Auditor-General to give the reports required by s93C(4) and 93D(4); and;</li> <li>(c) provides the basis for the preparation or amendment of the long-term plan</li> </ul>	<p>This is a new provision. It is proposed that this power be retained by Council</p>
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**Planning - Purpose and content of consultation document for annual plan (new section)**

95A(4)	<p>Local authority must adopt the information that is relied on by the content of the consultation document, as referred to in subsection 3(c), before it adopts the consultation document</p>	<p>This is a new provision. It is proposed that this power be retained by Council</p>
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**Planning – Combined or concurrent consultation on long-term plan and annual plan (new section)**

95B	<p>Must use the special consultative procedure in relation to both matters, if it carries out consultation in relation to an amendment to a long-term plan at the same time, or as combined with, consultation on an annual plan</p>	<p>This is a new provision. It is proposed that this power be retained by Council</p>
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**Financial management – Infrastructure strategy (new section)**

101B	<p>A local authority must, as part of its long term plan, prepare and adopt an infrastructure strategy for a period of at least 30 consecutive years, in accordance with this section (may meet the requirements of s101A and this section by adopting a single financial and infrastructure strategy document as part of its long term plan)</p>	<p>This is a new provision. It is proposed that this power be retained by Council</p>
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**Financial management - Funding and financial policies**

102(2), 102(4)	<p>Local authority must adopt:</p> <ul style="list-style-type: none"> <li>102(2) (a) a revenue and financing policy</li> <li>(b) a liability management policy</li> <li>(c) an investment policy</li> </ul>	<p>Provision amended to take into account new consultation provisions</p>
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	<p>(d) a policy on development contributions or financial contributions</p> <p>(e) a policy on the remission and postponement of rates on Māori freehold land</p> <p><del>(Must adopt in accordance with the special consultative procedure under 102(2))</del></p> <p>102(4) (a) must consult on a draft policy in a manner that gives effect to the requirements of s82 before adopting a policy under this section</p> <p>(b) may amend a policy adopted under this section at any time after consulting on the proposed amendments in a manner that gives effect to the requirements of s82</p>	
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### Reorganisation of local authorities

Schedule 3	Local authority has various powers and duties relating to initiation, promotion, and cost bearing regarding reorganisation schemes	Minor amendments to the provisions for reorganisation applications, proposals and schemes
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### Local authorities and community boards, and their members

Schedule 7, clause 27(5)	<p>A local authority may permit attendance at meetings by audio link or audiovisual link (for the purpose of clause 25A(1)(a)). Where it does so, the local authority –</p> <p>(a) must first provide for this matter in its standing orders; and</p> <p>(b) may include in its standing orders matters concerning the use of audio links or audiovisual links at meetings, including, without limitation, -</p> <p>(i) specifying the type or types of meeting at which members may participate by way of audio link or audiovisual link; and</p> <p>(ii) attendance requirements; and</p> <p>(iii) prescribing any method or technology of audio links and audiovisual links; and</p> <p>(iv) any other requirements that the local authority considers are appropriate to maintain public confidence in the transparency and integrity of decision-making processes and the conduct of members during these processes; and</p> <p>(v) specifying that any person wishing to participate in this manner must make prior arrangement</p>	<p>New provision added to allow for attendance at meetings by audio or audiovisual link.</p> <p>It is proposed that this power be retained by Council</p>
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Schedule 7, clause 30 (1)	May appoint committees and other subordinate decision-making bodies as considered appropriate, including a joint committee with another local authority, in accordance with clause 30A	Minor amendment to take into account new clause 30A and clauses 30(8)-(10) which have been repealed
Schedule 7, clause 30A(1), 30A(2)	<p>(1) A local authority may only appoint a joint committee under clause 30(1)(b) if it has reached an agreement with every other local authority or public body that is to appoint members of the committee,</p> <p>(2) An agreement under subclause (1) must specify-</p> <ul style="list-style-type: none"> <li>(a) The number of members each local authority or public body may appoint to the committee; and</li> <li>(b) How the chairperson and deputy chairperson of the committee are to be appointed; and</li> <li>(c) The terms of reference of the committee; and</li> <li>(d) What responsibilities (if any) are to be delegated to the committee by each local authority or public body and</li> <li>(e) How the agreement may be varied</li> </ul> <p>(3) May only enter into an agreement under subclause (1) that is consistent with any enactment applying to that local authority or public body, or its members</p>	This is a new provision. Clause 30(1)(b) currently retained by Council – new limitations introduced. It is proposed that this power be retained by Council
Schedule 7, clause 30A(6)(a)	Must discharge any individual member of a joint committee that they appointed and appoint another in his or her stead	This is a new provision (although generally the same as s30(9) which has been repealed). It is proposed that this power be retained by Council.
Schedule 7, 30A(6)(c)	<p>May vary by agreement with every other local authority or public body that appoints members of the committee:</p> <ul style="list-style-type: none"> <li>i. The procedure by which the chairperson and deputy chairperson of a joint committee are to be appointed</li> <li>ii. The procedure by which the chairperson or deputy chairperson of a deputy chairperson may be removed</li> <li>iii. Whether a quorum must include 1 or more members appointed by each party, or any party</li> <li>iv. The extent to which the standing orders of any local authority or public body apply to meetings of the joint committee</li> </ul>	This is a new provision. It is proposed that this power be retained by Council.