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The Local Government Act 2002

Rationalisation or Reform?

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**A thesis submitted in partial fulfillment of the requirements
for the degree of Doctor of Philosophy in Law,
The University of Auckland, 2008**

Abstract

Every community is affected in some way by the decisions that local councils make. Services which communities naturally rely upon, such as clean water flowing from taps, driving or catching a bus to work, or having rubbish collected are all provided by local authorities. But the role of local government in New Zealand society goes beyond the provision of services. Democratically elected local authorities play an essential part in the overall governance and sustainable development of the country.

The legal authority within which councils operate is circumscribed mainly by statute. Prior to 1999, key elements of this statutory framework had become outdated. The *Local Government Act 1974*, in particular, was a collection of parts enacted at different times, reflecting diverse policy approaches and objectives. It was prescriptive, complex and lengthy. Clearly, a more effective and enduring legislative framework was required.

In 1999, the Labour-Alliance Government initiated a Review of the *Local Government Act 1974* that aimed to achieve a new statute which reflected a coherent overall strategy for local government, moved to a more broadly empowering legislative framework, developed a partnership relationship between central and local government and clarified local government's relationship with the Treaty of Waitangi.

This thesis critically examines whether these four key objectives were achieved through the enactment and subsequent implementation of the *Local Government Act 2002*. Was the result of the Review mere rationalisation of the 1974 Act or true reform?

The thesis concludes, taking each of these objectives in turn, that the *Local Government Act 2002* only partially reflects a coherent overall strategy. While a number of disjointed objectives in the 1974 Act have been rationalised, true reform that aligns the principles of local self-government in New Zealand with those accepted internationally, is a matter for future action. By contrast, the move to a more broadly empowering legislative framework balanced by greater community accountability under the 2002 Act has resulted in true reform. Although the 2002 Act has not delivered a legislative partnership relationship, it has resulted in enhanced cooperation between central and local government. Finally, greater clarity has been achieved through the reform of local government's relationship with the Treaty of Waitangi.

Dedication

In gratitude to Maree, Charlotte and Poppy

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