



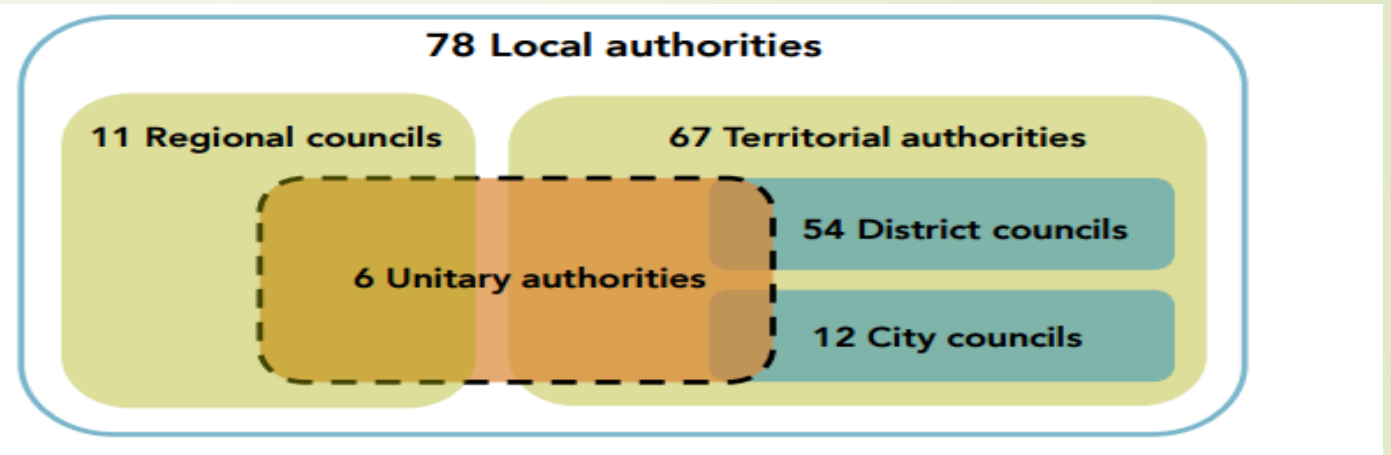
CHANGING PARAMETERS OF CONSULTATION IN LOCAL GOVERNMENT: LOSS OR GAIN FOR DEMOCRACY?



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Local government



- ▶ Local government in NZ comprises territorial authorities (city/district councils) and regional councils
- ▶ Local government's roles, functions and responsibilities are governed by statute
- ▶ **Local Government Act 2002** - sets out general powers of councils, planning and accountability requirements
- ▶ Many local government responsibilities and activities are governed by a raft of separate Acts of Parliament, eg **Resource Management Act 1991**

Public participation in decision making at local government level - RMA

- ▶ Local government founded on concept of political participation through democratically elected local representatives; and
- ▶ Opportunities for citizens to have a voice in decisions that affect their communities
- ▶ Key tenets of RMA include sustainable & integrated management of resources and the value of public participation
- ▶ RMA encourages public participation in decision-making processes
 - ▶ recognises and protects rights and interests of those affected and more general public interests
 - ▶ enhances quality of decision making
- ▶ District and regional planning processes allow members of the public significant rights of participation, including the right to submit, present to a hearings committee, and appeal a decision to the Environment Court

Resource Legislation Amendment Bill 20 15

- ▶ Frequent amendments to RMA:
 - ▶ “constant fiddling” – G Palmer (2016)
 - ▶ “The RMA... has been fundamentally weakened by continual (and particularly recent) amendments. It is nearing a tipping point at which it is becoming unworkable... The RMA is being brought to its knees.” – S Berry & H Andrews (2016)
- ▶ Recent legislation often lacking robust evidence and analysis, and poorly drafted
- ▶ RMA becoming progressively complex and cumbersome
 - ▶ Geoffrey Palmer cites the need to read the Bill with “a damp towel wrapped around one’s head”
 - ▶ Overly complex planning documents discourage participation by lay people, and are onerous for stakeholders

Resource Legislation Amendment Bill 20 15

Key themes with implications for local public participation:

- ▶ Frequent and fast pace of change to legislation
- ▶ Increasing centralisation of power
 - ▶ “Local democracy versus... creeping centralisation” - J Drage (2011)
 - ▶ Eg a national planning template for plans
 - ▶ Eg broadening of Minister for the Environment’s powers to make regulations
 - ▶ “Henry 8th clause” - proposals essentially providing the Minister with powers to legislate by proclamation
 - ▶ Eg to stop councils making “unreasonable” rules that limit residential development



Resource Legislation Amendment Bill 20 15

Key themes with implications for local public participation:

- ▶ Limiting opportunities for public participation to create a “more responsive planning process”
 - ▶ Eg proposed new, faster processes for preparing/changing plans
 - ▶ Eg requirement for councils to strike out submissions for a number of reasons, such as not having sufficient factual basis, not supported by evidence or being unrelated to effects the application was notified for
 - ▶ Eg more restrictive notification of resource consents

Current directions of central government

- ▶ Productivity Commission
- ▶ Reform of local government – ongoing reform in recent years, with change often driven by central gov't political ideology, rather than a mandate from local communities or local gov't
- ▶ Greater centralisation of power and decision making
- ▶ Short term focus on the issue du jour, rather than a long-term focus on broader societal issues
- ▶ Losses: National-led government's pursuit of "greater efficiency" resulting in reduced opportunities for public participation under the RMA
- ▶ Gains: Still looking for these...