

3 February 2022

Hon Dr David Clark
Minister of Commerce & Consumer Affairs
Parliament Buildings
Wellington
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Tena koe Minister Clark

Application of the Credit Contracts and Consumer Finance Act 2003 to Greater Wellington Regional's Council Voluntary Targeted Rate Scheme

We are seeking your support, as Minister in charge of the Credit Contracts and Consumer Finance Act 2003 (the **Act**), of the review of the application of the Act to Greater Wellington Regional Council's (**Greater Wellington**) existing voluntary targeted rate (**VTR**) sustainable home scheme known as "Warm Wellington".

We write in support of similar requests made by other regional and local councils that offer similar schemes. While we support the Act's aim of ensuring that vulnerable consumers are not being provided with loans that are unaffordable or unsuitable, we consider that the Act's provisions create an unwarranted burden on Greater Wellington's ability to support community wellbeing with no added benefit to consumers.

The Warm Wellington scheme commenced in 2010 as a joint initiative with the central Government's Heat Smart: Warm Up NZ Programme. Since then, we have provided finance through the VTR scheme to assist in the insulation of homes built prior to 2005 throughout the wider Wellington region.

The scheme provides a maximum of \$3,900 (including GST) in financial assistance to retrofit insulation in the Wellington area or a maximum of \$5,000 (including GST) to assist with the installation of insulation and/or heating if the property is in Masterton or Wainuiomata; the latter being added to the scheme in 2015. In relation to Masterton and Wainuiomata, this is to address air quality issues, largely attributable to indoor open fires and poor burning practices. These advances are repaid over a maximum of 9 years through the VTR. The added benefit of this approach is that the debt attaches to the property not the current homeowner. When the property is sold, the new owner receiving the benefit of the scheme continues to pay the remainder of the advances; rate payment obligations being a fully transparent part of conveyancing.

The provision of consumer finance is not a core function of Greater Wellington. The continued offering and benefit of our Warm Wellington scheme is, therefore, in jeopardy due to the administrative burden and the high costs associated with compliance. We do not believe that the potential dissolution of non-profit schemes aimed at improving the well-being of the community was the intention of the change in legislation. In our view, the Act's requirements are instead aimed at credit providers of a significantly different nature to local authorities.

We note your announcement on 14 January 2022 of a review of whether banks are implementing the regulations as intended by legislation. While this review may cover some of the unintended consequences of the new regulations as they affect local government, it will not address the substantive issue that the requirements of the Act and associated regulations and codes were designed to apply to private sector entities, and not local authorities.

Our proposed solution is the use of section 137B of the Act. We would suggest that the purpose of this section was to provide a pathway to exclude “facilities or arrangements” inadvertently captured by the very broad definition of “credit contract” and that the Warm Wellington scheme is exactly the type of situation envisaged to be recognised by this section. Ideally, therefore, we would like you to consider the option of making a declaration under section 137B of the Act that our Warm Wellington scheme is not a credit contract and, therefore, is not covered by the compliance provisions of the Act.

We are aware that you also have the option of considering a class exemption under section 137A of the Act. There are also additional exemptions for local authorities under section 18 of the Act. These are, however, narrow exemptions to the requirements under the Act that do not reduce to any great degree the compliance obligations on local authorities. Additionally, these options impose increased (and potentially prohibitive) costs on local authorities, the Ministry of Business Innovation and Employment and the Commerce Commission – as well as requiring (in the case of a declaration under section 137A) a legislative process.

If you are comfortable in signalling general support for a review of the application of the Act to our Warm Wellington scheme (and other local authority VTR schemes), ideally for a section 137B declaration, Greater Wellington would work closely with the Ministry of Business Innovation and Employment and the Commerce Commission as required to ensure the relevant information is provided to support a formal decision.

We look forward to your response.

Ngā mihi



Nigel Corry
Te Tumu Whakarae | Chief Executive



Daran Ponter
Heamana | Chair

cc Roger Blakeley, Chair, Wellington Regional Healthy Housing Group, roger.blakeley@gw.govt.nz