

LOCAL GOVERNMENT BUSINESS FORUM

25 May 2018

Clerk of the Committee
Government Administration Committee
Parliament Buildings
WELLINGTON

LOCAL GOVERNMENT (COMMUNITY WELL-BEING) AMENDMENT BILL

1. Introduction

- 1.1 The Local Government Business Forum ('the Forum') welcomes the opportunity to make a submission on the Local Government (Community Well-being) Amendment Bill.
- 1.2 The Forum comprises organisations that have a vital interest in the activities of local government. Its members include BusinessNZ, the Electricity Networks Association, Federated Farmers of NZ, NZ Initiative, NZ Chambers of Commerce, and Property Council NZ. The Forum was established in 1994 to promote greater efficiency in local government and to contribute to the debate on policy issues affecting it.
- 1.3 Some individual members of the Forum will be making their own submissions on the Bill and we acknowledge their submissions.
- 1.4 The Forum is concerned about the impact the Bill will have on the incentives on local government and that it will drive bigger increases in its spending and rates. The Forum does not support the Bill proceeding especially as it prejudices the public inquiry promised in the Labour-NZ First Coalition Agreement 'to investigate the drivers of local government costs and its revenue base'. In effect this is the Productivity Commission's Inquiry announced by the Minister of Local Government on 11 May 2018.
- 1.5 It is also concerning that there was no consultation on the changes set out in the Bill and indeed the introduction of the Bill came as complete surprise. It is not good enough for the Bill's Regulatory Impact Statement (RIS) to blandly say that the Bill is consistent with previous representations of Local Government New Zealand and the Society of Local Government Managers. This completely ignores the perspectives of ratepayers, the people who fund local government.

2. Summary of Recommendations

- 2.1 The Forum recommends the Bill should not proceed and instead any changes should be deferred until after the conclusion of the Productivity Commission's Inquiry.
- 2.2 However, if it is determined that the Bill should proceed at this time, the Forum recommends the following amendments:
- (a) The Local Government Act 2002's original consultation provisions, which were amended in 2014, be reinstated at least in part; and
 - (b) Councils be required to report on their progress on the four well-beings against the Treasury's Living Standards Framework.

3. Background

- 3.1 The Local Government (Community Well-being) Amendment Bill has three objectives:
1. It will restore the purpose of local government to be 'to promote the social, economic, environmental and cultural well-being of communities';
 2. It will restore territorial authorities' power to collect development contributions for any public amenities needed as a consequence of development. This will assist in the provision of facilities such as sports grounds, swimming pools, and libraries; and
 3. It will make a minor modification to the development contributions power so that it is clear that advances of financial assistance from the New Zealand Transport Agency that are recoverable do not affect the power of territorial authorities to collect development contributions for projects financed using that mechanism.
- 3.2 The Forum wishes to focus its submission on points 1 and 2 (although our views on point 2 will also apply to point 3).

4. The 'Four Well-beings'

- 4.1 The Bill seeks to restore the Local Government Act 2002's purpose of local government 'to promote the social, economic, environmental and cultural well-being of communities' which existed prior to the 2012 amendment to the Act.
- 4.2 The 2012 amendment replaced the 'four well-beings' with a purpose statement to 'meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.'
- 4.3 The Forum supported the 2012 amendment as we considered it a necessary measure to rein in the excessive growth in local government spending over the decade prior.
- 4.4 To illustrate, from December 2002 to December 2012 (broadly the period when the four well-beings were in place):
- Local government annual operating spending increased from \$3.9 billion to \$8.4 billion (up 114%); and

- Local government annual rates revenue increased from \$2.4 billion to \$4.6 billion (up 94%)¹.
- 4.5 Both increases were well ahead of inflation of 28% and population growth of 11%. The biggest increases in operating spending occurred in 2005 (up 11.9%), 2008 (up 10.5%), and 2011 (up 10.4%).
- 4.6 In the five years from December 2012 to December 2017 (broadly the period of the Act's current purpose statement) spending and rates increases both slowed somewhat:
- Local government annual operating spending increased a further 24% to \$10.4 billion; and
 - Local government annual rates revenue increased a further 25% to \$5.7 billion.
- 4.7 Inflation was 5.5% and population growth was 9%. In 2013, the year after the legislative change, council spending actually dipped slightly (down 1.0%) and no year has seen double digit spending increases (the biggest annual increase came in 2017: 7.2%).
- 4.8 The current Act's purpose statement has not stopped councils from increasing their spending by more than the rate of inflation, and other factors could also have been at play, such as (short-lived) efficiencies from the formation of Auckland Council and general fiscal consolidation in the years following the global financial crisis and recession. Nevertheless, it is the Forum's view that the 2012 purpose statement did help to apply a brake to council spending and encouraged them to focus more on core activities.
- 4.9 Unfortunately, if the 2002-12 experience is anything to go by, the Bill will give local government explicit encouragement to ramp up their spending and their rates. Weakened consultation provisions (from a legislative change in 2014) means that there will be even less of a check on councils compared to 2002-12.
- 4.10 The RIS notes concern from local government that the current purpose statement opens councils up to legal challenge and cites the Wellington City Council's withdrawal of a decision that its contractors should be required to pay a living wage. The Forum has always considered these concerns to be overblown and it is notable that despite predictions to the contrary no cases relating to the appropriate purpose of local government have been brought to the courts, let alone upheld.
- 4.11 With regard to the purpose statement deterring councils from 'fostering liveable communities' (another concern of the RIS), the current purpose statement does not prevent councils from doing this and this year's round of Long Term Plans suggests plenty are doing so. The Forum is not opposed to councils fostering liveable communities but we believe the best way they can do so is by providing good quality infrastructure, local public services and performance of regulatory functions in a way that is cost-effective for households and businesses.
- 4.12 The Forum is concerned about this change taking place in the absence of sufficiently strong accountability mechanisms. Turnout in local government elections is generally far lower than in national elections, so democratic accountability is weaker than it should be. At the same time, the broad geographical area covered by many

¹ Statistics NZ Local Authority Statistics

local councils means that competition among councils may not be sufficient to encourage strong performance. Councils wishing to use a broader remit available in the amended Act should do so only with the demonstrated and informed consent of their communities.

- 4.13 We worry that, absent better accountability mechanisms or improved incentive structures, councils could be tempted to shift from the core infrastructure provision that is necessary in encouraging development. We could easily find ourselves with more councils ramping up spending, rates, and debt, hitting their borrowing limits and being unable then to raise further debt to fund necessary infrastructure renewal or expansion. One option might be to open the broader remit only to those councils able to demonstrate a strong track record of fiscal prudence and of appropriate infrastructure investment.
- 4.14 Another would be to strengthen consultation requirements which were weakened in 2014. Those consultation requirements were an important 'quid pro quo' to councils being given the power of general competence and the four well-beings purpose statement. They were not perfect (they imposed costs on councils and did not always result in good engagement) and they were eased in 2014 after a review under the previous government (and after 2012's amendment to the purpose statement).
- 4.15 However, with the Bill's restoration of the four well-beings we believe there is a good case for the Bill to reinstate at least some of the previous (2002) consultation provisions, including the requirement to consult on annual plans as well as long-term plans and to consult not only on consultation documents but also on full draft annual plans and draft long-term plans. The experience of Forum members is that in practice the results from the current (2014) consultation provisions have been decidedly mixed and in some cases worse than the previous (2002) provisions.
- 4.16 Furthermore, the Forum believes that if the Government is serious about encouraging councils to promote the four well-beings, and if councils really want to embrace the cause of 'liveable communities', it will be important for the sake of accountability that councils be required to report their activities and progress against established and credible well-being indicators, such as those in Treasury's Living Standards Framework.
- 4.17 To conclude on the four well-beings, the Forum is concerned about the potential impact of their reinstatement on local government spending and on rates. We cannot understand why the Bill is being pushed through ahead of the public inquiry promised in the Labour-NZ First Coalition Agreement 'to investigate the drivers of local government costs and its revenue base'. This is being progressed through a Productivity Commission Inquiry into Local Government Funding. The Inquiry was announced by the Minister of Local Government on 11 May 2018 and is to be completed by mid-2019.
- 4.18 The Forum strongly supports this Inquiry and we support the decision for the Productivity Commission to undertake it. Among other things it needs to look into the impacts of legislative changes from 2002 to the present day. If the Inquiry finds that the 2002 purpose statement was not a factor in spending and rates increases over the 2002-12 period and that the 2012 amendment to the purpose statement was not a factor behind the slowdown in spending and rates increases from 2012-17 then our concerns about restoring the four well-beings would be reduced. Yet without the benefit of this Inquiry a significant legislative change is being made that

will in our view lead to higher spending (especially on non-core activities) and higher rates.

- 4.19 It is disappointing that waiting for the outcome of the Inquiry was not mentioned as an option in the RIS.

5. Development Contributions

- 5.1 The Bill also seeks to restore territorial authorities' power to collect development contributions for any public amenities needed as a consequence of development. It reinstates a broad definition of community infrastructure that applied prior to a 2014 amendment to the Local Government Act which applied a narrower definition.

- 5.2 The Forum supported the 2014 amendment. Although we are not opposed to development contributions per se, our concerns about them prior to 2014 revolved around the lack of clarity in their use and the tendency for such contributions to extend beyond a use that is justified – for example, into funding community infrastructure that was not a consequence of the development.

- 5.3 In March 2010 the Forum, in conjunction with the Property Council of New Zealand, published a paper on development contributions, *Taxing Growth and Development*. The paper, available from the Forum's website², identified problems at the time with over-reliance on this funding tool and recommended a number of changes.

- 5.4 The 2014 amendment was broadly consistent with the recommendations from *Taxing Growth and Development*. We note that the change came after a 2013 consultation with interested parties, including the Forum and individual Forum members.

- 5.5 The Forum is disappointed that the change in this Bill is being made without any prior consultation with interested parties (including the development community as admitted in the RIS) and once again ahead of the public inquiry promised in the Labour-NZ First Coalition Agreement 'to investigate the drivers of local government costs and its revenue base'.

- 5.6 We therefore recommend the Bill be deferred until after proper consultation with interested parties and the conclusion of the Productivity Commission's Inquiry into Local Government Funding

6. Conclusion

- 6.1 The Local Government Business Forum is concerned about the implications of this Bill for local government spending and rates. We are disappointed that the Bill is being rushed ahead of the promised public inquiry into local government costs and its revenue base and, in the case of development contributions, without any consultation with interested parties.

² See: <http://www.localgovtforum.org.nz/Documents/Documents-and-Reports/Taxing-Growth-and-Development.aspx>

- 6.2 The Forum therefore recommends the Bill be deferred until after the conclusion of the promised public inquiry. In the case of development contributions, proper consultation with interested parties should take place before any legislative change.
- 6.3 However, if it is determined that the Bill should proceed at this time, the Forum recommends the following amendments:
- (a) The Local Government Act 2002's original consultation provisions, which were amended in 2014, be reinstated at least in part; and
 - (b) Councils be required to report on their progress on the four well-beings against the Treasury's Living Standards Framework.
- 6.4 The Forum would appreciate the opportunity to present its submission to the Committee. To arrange a date and time please contact Nick Clark (phone 027 217 6731 or email nclark@fedfarm.org.nz).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M. A. Barnett', with a stylized flourish at the end.

Michael Barnett
Chair