

Local Government Amendment Bill 2018

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| TO | Council |
| FROM | Angela Jane - Group Manager Governance and Strategy |
| DATE | 29 April 2018 |
| SUBJECT | Local Government Amendment Bill 2018 |

1 Purpose of report

The purpose of the report is for the Council to consider making a submission on the Local Government Amendment Bill 2018.

2 Background

The Local Government (Community Well-being) Amendment Bill's explanatory note lists the following 3 main objectives of the Bill:

- first, it will restore the purpose of local government to be “to promote the social, economic, environmental, and cultural well-being of communities”; and
- second, 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
- finally, the Bill 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.

Key changes to the Act include:

As it now stands the purpose of local government (Section 10) is:

- (1) *The purpose of local government is—*
 - (a) *to enable democratic local decision-making and action by, and on behalf of, communities and*
 - (b) *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.*
- (2) *In this Act, **good-quality**, in relation to local infrastructure, local public services, and performance of regulatory functions, means infrastructure, services, and performance that are—*
 - (a) *efficient; and*
 - (b) *effective; and*
 - (c) *appropriate to present and anticipated future circumstances*

The Bill proposes that the former purpose from the original Act in 2002 be restored, as follows:

- (1) *The purpose of local government is—*
 - (a) *to enable democratic local decision-making and action by, and on behalf of, communities and*
 - (b) *to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.*

In section 197(2), the definition of community infrastructure for the development contribution policies is replaced with:

community infrastructure —

- (a) *means land, or development assets on land, owned or controlled by the territorial authority for the purpose of providing public amenities; and*
- (b) *includes land that the territorial authority will acquire for that purpose*

Section 198A (Restrictions on power to require contributions for reserves) is repealed.

Current Section 198A:

Restrictions on power to require contributions for reserves

- (1) *Despite section 198(1), a territorial authority may not require a development contribution to be made to the territorial authority for the provision of any reserve—*
 - (a) *if the development is non-residential in nature; or*
 - (b) *for the non-residential component of a development that has both a residential component and a non-residential component.*
- (2) *For the purpose of subsection (1), accommodation units are deemed to be residential.*
- (3) *In this section, reserve does not include land that forms or is to form part of any road or is used or is to be used for stormwater management purposes.*

For more detail the Local Government (Community Well-being) Amendment Bill 2018 is provided as **Attachment A**.

3 Issue

Council approval is required for all submissions sent to external parties where there is no policy on record. The submission period for the Local Government (Community Well-being) Amendment Bill closes on 25 May 2018.

4 Discussion

The Bill makes a small number of changes in four areas of the Act:

- substitutes a wellbeing focussed statement of purpose of local government for the more function based statement of purpose
- repeals, without substitution, the so-called 'core services clause' (section 11A)
- restores the ability to assess development contributions for all public amenities and to assess reserves contributions from non-residential developments and
- last but not least the Bill makes a correction to align an operational policy and the law by allowing local authorities that receive the so-called 'advance financial assistance' from NZTA on a piece of infrastructure to assess development contributions.

The first three listed above undo policy changes that the sector saw little or no merit in. The fourth resolves a misalignment of an operational policy set under the Land Transport Act with a power to assess development contributions under the Local Government (i.e. the two Acts did not 'talk to each other').

The draft submission from LGNZ has been distributed to elected members for their information. LGNZ note their support for the Bill.

The Council could choose to:

- support LGNZ's submission and make no further comment
- support LGNZ's submission and highlight specific parts of the Bill of significance to Thames-Coromandel District Council
- submit our own submission based on councillors feedback.

Staff consider that the restoration of the development contribution clauses from the previous iteration of the Act is significant to this district. The other changes to the Act are not seen as material to the workings of this Council. The Council's submission in 2010 when the Act was changed (and the reference to well-beings was removed) noted that the change was not necessary. This Council has not incurred compliance costs because of the current purpose as has been claimed by some proponents of the Bill in proving the 'most cost-effective' option. Legal advice in 2012 when this new wording was introduced advised that cost effectiveness was only one attribute to be considered, not the only consideration.

The current purpose allows councils to work in areas beyond local infrastructure, local public services and regulatory functions where there is support from the residents and ratepayers. Staff consider that with the well-beings restored in the legislation the Council would still engage with residents and ratepayers in the same vein basing the effort of engagement on the significance of the issue concerned.

The loss of the definition of 'good-quality' and the references to efficient and effective in the purpose statement is not seen as material as these attributes are still reflected in the principles relating to local government (Section 14) and the service delivery reviews (section 17A).

5 Suggested resolution(s)

That the Council:

1. Receives the 'Local Government Amendment Bill 2018' report, dated 29 April 2018.
2. Directs staff on the content for a Council submission;
3. Delegates authority to the Mayor to finalise the submission on the Local Government (Community Well-being) Amendment Bill and submit before submissions close on 25 May 2018.

References-Tabled/Agenda Attachments

Attachment A The Local Government (Community Well-being) Amendment Bill 2018