

Local Government (Community Well-being) Amendment Bill

Government Bill

Explanatory note

General policy statement

The Local Government (Community Well-being) Amendment Bill has the following 3 main objectives:

- 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.

Departmental disclosure statement

The Department of Internal Affairs is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2018&no=48>

Regulatory impact assessment

The Department of Internal Affairs produced a regulatory impact assessment on 5 March 2018 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact assessment can be found at—

- https://www.dia.govt.nz/diawebsite.nsf/wpg_URL/Resource-material-Regulatory-Impact-Statements-Index?OpenDocument
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. The Bill will come into force on the day after the date on which it receives the Royal assent.

Clause 3 provides that the provisions of the Bill amend the Local Government Act 2002 (the **principal Act**).

Part 1

Reinstatement of 4 aspects of well-being

Clause 4 amends the purpose section of the principal Act (section 3). It provides that a purpose of the Act is to provide for local authorities to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities (the **4 aspects of well-being**), taking a sustainable development approach. This reinstates the position that applied before the amendments made by the Local Government Act 2002 Amendment Act 2012 (the **2012 Amendment Act**).

Clause 5 amends the following definitions in section 5 of the principal Act:

- community outcomes—the definition that applied before the enactment of the 2012 Amendment Act, which includes reference to the 4 aspects of well-being, is reinstated:
- good-quality—this definition is relocated from section 10(2) of the principal Act, which is repealed by *clause 6(2)*:
- significance—the definition that applied before the enactment of the 2012 Amendment Act, which includes reference to the 4 aspects of well-being, is reinstated.

Clause 6 amends section 10 of the principal Act, which sets out the purpose of local government. *Subclause (1)* replaces subsection (1)(b) of section 10 to reinstate the reference to the 4 aspects of well-being that existed prior to the enactment of the 2012 Amendment Act. Subsection (2) of section 10, which defines the term good-quality, is repealed and the definition is moved to the main interpretation section (*see clause 5*).

Clause 7 amends section 14 of the principal Act, which sets out principles that a local authority must act in accordance with when performing its role. The amendment rein-

states the principle that a local authority, when making decisions, should take account of the likely impact of any decision on the 4 aspects of well-being. It also reinstates a requirement to the effect that if any of the 4 aspects of well-being conflict in a particular case, the local authority should resolve the conflict in an open, transparent, and democratically accountable manner. Again, this reinstates the position that applied before the enactment of the 2012 Amendment Act.

Clause 8 amends section 101(3) of the principal Act, which specifies certain matters that a local authority must consider when determining sources of funding to meet its needs. The amendment reinstates a reference to the 4 aspects of well-being that was removed as a result of amendments made by the 2012 Amendment Act and the Local Government Act 2002 Amendment Act 2014.

Clause 9 amends Schedule 10 of the principal Act by reinserting references to the 4 aspects of well-being in clauses 2(1)(c) and 23(d) of that schedule.

Part 2 Other amendments

Clause 10 repeals section 11A of the principal Act, which requires a local authority, when performing its role, to have particular regard to the contribution that specified services make to its communities.

Clause 11 amends section 197 of the principal Act by replacing the definition of community infrastructure. A territorial authority may require development contributions in respect of capital expenditure to provide for community infrastructure (*see* section 199(1)(c) of the principal Act). The amendment reinstates the broad definition of community infrastructure that applied before a narrower definition was inserted by the Local Government Act 2002 Amendment Act 2014.

Clause 12 repeals section 198A of the principal Act, which imposes restrictions on a territorial authority's power to require contributions for reserves.

Clause 13 amends section 200 of the principal Act, which imposes limits on a territorial authority's ability to require development contributions. Section 200(1)(c) provides that a development contribution cannot be required for network infrastructure (which includes the provision of roads and transport) if a third party has funded the same infrastructure.

The amendments will facilitate territorial authorities' entry into funding agreements with the New Zealand Transport Agency that provide for the territorial authority to receive funding from the national land transport fund that is higher than the amount of funding (if any) that would otherwise be provided, on the basis that the additional funding will be offset by reduced funding for other projects or programmes.

The effect of the amendments is to ensure that the prohibition on imposing development contributions for third-party-funded infrastructure—

- does not apply to any amount of additional funding that is provided under such a funding agreement (because that additional funding will in effect be repaid by the territorial authority); and
- applies, in the case of any reduced amount of funding for another project, as if the amount of funding provided were the amount that would otherwise have been provided, not the reduced amount.

Hon Nanaia Mahuta

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Local Government (Community Well-being) Amendment Act **2018**.

2 Commencement

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This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Local Government Act 2002 (the **principal Act**).

Part 1

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Reinstatement of 4 aspects of community well-being

4 Section 3 amended (Purpose)

Replace section 3(d) with:

(d) provides for local authorities to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach.

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5 Section 5 amended (Interpretation)

(1) In section 5(1), replace the definition of **community outcomes** with:

community outcomes means the outcomes that a local authority aims to achieve in order to promote the social, economic, environmental, and cultural well-being of its district or region in the present and for the future

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(2) In section 5(1), replace the definition of **good-quality** with:

good-quality, in relation to local infrastructure, local public services, and performance of regulatory functions, means infrastructure, services, and performance that are—

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(a) efficient; and

(b) effective; and

(c) appropriate to present and anticipated future circumstances

(3) In section 5(1), definition of **significance**, replace paragraph (a) with:

(a) the current and future social, economic, environmental, or cultural well-being of the district or region:

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6 Section 10 amended (Purpose of local government)

(1) Replace section 10(1)(b) with:

	(b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.	
(2)	Repeal section 10(2).	
7	Section 14 amended (Principles relating to local authorities)	
(1)	Replace section 14(1)(c)(iii) with:	5
	(iii) the likely impact of any decision on each aspect of well-being referred to in section 10:	
(2)	In section 14(1)(h)(i), replace “interests” with “well-being”.	
(3)	In section 14(2), after “principles”, insert “, or any aspects of well-being referred to in section 10, are in”.	10
8	Section 101 amended (Financial management)	
	Replace section 101(3)(b) with:	
	(b) the overall impact of any allocation of liability for revenue needs on the current and future social, economic, environmental, and cultural well-being of the community.	15
9	Schedule 10 amended	
(1)	In Schedule 10, replace clause 2(1)(c) with:	
	(c) outline any significant negative effects that any activity within the group of activities may have on the social, economic, environmental, or cultural well-being of the local community:	20
(2)	In Schedule 10, replace clause 23(d) with:	
	(d) describe any identified effects that any activity within the group of activities has had on the social, economic, environmental, or cultural well-being of the community.	
	Part 2	25
	Other amendments	
10	Section 11A repealed (Core services to be considered in performing role)	
	Repeal section 11A.	
11	Section 197 amended (Interpretation)	
	In section 197(2), replace the definition of community infrastructure with:	30
	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	

- 12 Section 198A repealed (Restrictions on power to require contributions for reserves)**
Repeal section 198A.
- 13 Section 200 amended (Limitations applying to requirement for development contribution)** 5
After section 200(4), insert:
- (5) **Subsection (6)** applies if a territorial authority has entered a funding agreement with the New Zealand Transport Agency under which—
- (a) a specified amount of additional financial assistance is to be provided from the national land transport fund to the territorial authority to fund a specified network infrastructure project; and 10
- (b) that specified amount of additional financial assistance is to be offset by reduced funding for 1 or more other projects or programmes.
- (6) If this subsection applies, the specified amount of additional financial assistance must not be treated as third-party funding for the purposes of subsection (1)(c). 15
- (7) **Subsection (8)** applies if a funding agreement referred to in **subsection (5)**—
- (a) provides for some or all of the specified amount of additional financial assistance to be offset by the provision of a reduced amount of financial assistance for 1 or more other network infrastructure projects; and 20
- (b) specifies the amount of financial assistance for each other network infrastructure project that would otherwise have been provided.
- (8) If this subsection applies, to the extent that a network infrastructure project receives a reduced amount of financial assistance, subsection (1)(c) applies as if the amount of financial assistance provided for that project were the amount that would otherwise have been provided, and not the reduced amount. 25
- (9) In this section, **additional financial assistance** means an amount of financial assistance for a network infrastructure project that is greater than the amount (if any) that would otherwise be provided from the national land transport fund in respect of that project. 30
- (10) **Subsections (5) to (9)** prevail over subsection (1)(c).