

Submission

By



to the

**Local Government and Environment
Select Committee**

on the

Local Government Act 2002 Amendment Bill

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LOCAL GOVERNMENT ACT 2002 AMENDMENT BILL
SUBMISSION BY BUSINESSNZ¹

1.0 INTRODUCTION

- 1.1 BusinessNZ understands that this Bill is the first of two dealing with the reform of local councils and our comments will therefore be restricted to the four broad areas covered (purpose statement, financial prudence requirements, governance issues, and streamlining reorganisation procedures). However, BusinessNZ has a critical interest in other issues such as development contributions, which will be subject to scrutiny under the second Bill (proposed for 2013).
- 1.2 BusinessNZ welcomes the opportunity to make a submission on the Local Government Act 2002 Amendment Bill (“the Bill”) and supports the Bill’s general intent.
- 1.3 The business sector pays a significant share of the country’s rates bill and the level of rates paid is often entirely disproportionate to the level of services received. The situation is exacerbated by the generally wide use of business/commercial rating differentials despite strong evidence supporting their removal. Where councils have agreed to reduce such differentials, they have often been tardy in doing so, tending towards incremental change due to “expenditure pressures”. Rates should be gathered in respect to services rendered, not as a general taxation mechanism, as appears often to be the case.²
- 1.4 Other common concerns expressed by the business community include the role and functions of local government (power of general competence), funding allocation mechanisms and mix (including transparency and caps), size of local councils (including the potential for economies of scale), and issues relating to the imposition by central government of further costs on local government via regulation.³
- 1.5 Local Government has a vital role to play in advancing the overall well-being of New Zealanders. However, that role is not all-encompassing but needs to be established on a principled basis and properly circumscribed.

¹ Background information on BusinessNZ is attached as Appendix 1.

² Background on the costs associated with local government as a percentage of GDP, including rate rises relative to the CPI, and debt levels, are included in the Better Local Government paper released by the Prime Minister on 19th March 2012 so are not repeated here.

³ BusinessNZ has been constructive in advocating reform of local government through a number of submissions and publications including its principal publication on local government entitled “*Local Government – the business case*” (BusinessNZ 2007)

RECOMMENDATIONS

BusinessNZ **recommends** that:

the Bill proceeds but that the Select Committee seriously consider making the following four amendments.

1. Clause 4(d) amending Section 3, substitute “*public goods*” for “*public services*”.
2. Clause 5(1) amending Section 5, substitute “*public goods*” for “*public services*”.
3. Clauses 7(1) and 7(2)(2) amending Section 10, substitute “*public goods*” for “*public services*”.
4. In Clause 22 (Section 259 amended (Regulations)) insert an additional sub-clause (5) stating that any regulations developed under this clause must also take into account sound financial reporting standards as provided for by the Office of the Auditor General.

Note that classic public goods are set out in the top left hand column of the diagram on page 4.

2.0 Issues covered in the Bill

1. *Refocusing the Purpose Statement for Local Government*
 - 2.1 The Explanatory Note clearly outlines the problems associated with the current law relating to local government in that it does not adequately focus councils on operating efficiently, on delivering those services that only councils can provide, or on performing those roles that only councils can perform. The Explanatory Note goes on to outline the difficulties of having a very broad purpose statement as currently set out in the Local Government Act 2002, encompassing social, economic, cultural and environmental well-being.
 - 2.2 Specifically, the Bill introduces a new purpose statement for local government, namely, to meet the current and future needs of communities for good quality local infrastructure, *local public services*, and the performance of regulatory functions in a way that is most cost-effective for households and businesses. Good quality is defined in the Bill as efficient, effective and appropriate to present and anticipated future circumstances. The Explanatory Note suggests that this will help define the role of councils and assist them to plan and prioritise activity.

- 2.3 While BusinessNZ considers that the proposed purpose statement is a giant leap forward towards providing Local Government with a more clearly defined focus, there is still a way to go to ensure that Local Government focuses on its proper role, which is principally the provision of local “*public goods*” rather than local “*public services*”, given that public services could be interpreted as essentially any business or other activity which a council wanted to involve itself. BusinessNZ considers it would be desirable to focus local government on the provision of local public goods, since the likelihood is that their provision will otherwise be inadequate, hence recommendation 4.⁴

Figure 1: Characteristics of local government services – rivalry and excludability

		Rivalry in consumption →		
		Public goods		
Excludability of consumption ↓		Low	Medium	High
	Low	Street lighting, street and traffic signs, parks and reserves, civil defence, public health and safety (eg security cameras), and democratic, representative and regulatory functions	Low-use roads, footpaths and cycleways	Remedying marine pollution, biosecurity (pests and noxious plants) and graffiti removal from public facilities and areas
	Medium	Flood protection	Sports grounds, public conveniences and bus ways	High-use roads, tourism promotion, economic development
	High	Museums and galleries	Public libraries, swimming pools, indoor recreation facilities and public venues	Ports, airports, public transport, water and waste water, rubbish disposal, cemeteries, car parks, cinemas and housing
				Private goods

Source: Local Government Forum (LGF, November 2008), “Local Government and the Provision of Public Goods.”

- 2.4 While on the margins there will always be debate about what constitutes a public or private good, a diagram from a Local Government Forum (LGF) publication, “Local Government and the Provision of Public Goods” (November 2008), provides a very useful overview of some of the key goods and services many local authorities are currently providing. The intention is to categorise the goods and

⁴ See Local Government Forum (LGF) publication “Local Government and the Provision of Public Goods” (2008) for a fuller description on the role of local government and the provision of both public and private goods.

services as either relatively pure public goods, or private goods, based on the fundamental tests of *rivalry in consumption* and *excludability of consumption* (private good) and *non-rivalry in consumption* and *non-excludability of consumption* (public good). This table would provide a good basis on which to focus local government provision of core public goods.

- 2.5 Section 11A (which was inserted into the Act in 2010) states:

“In performing its role, a local authority must have particular regard to the contribution that the following core services make to its communities:

(a) network infrastructure:

(b) public transport services:

(c) solid waste collection and disposal:

(d) the avoidance or mitigation of natural hazards:

(e) libraries, museums, reserves, recreational facilities, and other community infrastructure

- 2.6 While some of these so-called core services outlined in Section 11A could be considered public goods, they tend to constitute a very broad suite of issues extending well beyond what are characterised as public goods in the diagram above.
- 2.7 It is suggested that the focus should be on the provision of those goods and services in the top left box (e.g. street lighting etc) which are clearly public goods, with a lower focus on the provision of those goods and services in the bottom right hand column (e.g. ports etc) which are essentially private goods. This would help more clearly direct councils to core (public good) activities.

2. Fiscal Responsibility requirements

- 2.8 It is noted that the Local Government Act 2002 Amendment Bill provides, by way of regulation, for fiscal responsibility requirements in respect of income and expenditure, and prudent debt levels to be developed in consultation with Local Government NZ. BusinessNZ is supportive of these provisions which should ensure greater transparency and financial accountability for local government.
- 2.9 The Regulations outlined in Clause 22 provide a flexible range of tools which in essence are similar to provisions under the then Fiscal Responsibility Act (now incorporated into the Public Finance Act) in respect to Central Government financial discipline. In this respect they represent an attempt to impose a similar discipline on the local government sector which, to some extent, and for a variety of reasons, has been missing to date.

- 2.10 In order to ensure that any benchmarks for financial performance are rigorous, BusinessNZ considers it may be desirable to seek input from the Office of the Auditor General. This would help to establish sound financial benchmarks which are transparent and useful in terms of local government accountability to ratepayers, avoiding any criticism that those benchmarks are “soft” and potentially of little value.

3. Governance provisions

- 2.11 The Bill sets out a number of additional requirements for elected representatives to provide for stronger governance. These relate to issues such as empowering councils to set policy on the number of staff employed and an overall remuneration policy. Other policies provide for greater mayoral powers and a graduated scale of intervention linked to new fiscal responsibility requirements ranging from the request to provide information, or in extreme situations, to provide for commissioners or an early election.
- 2.12 BusinessNZ is generally supportive of these requirements considering that such mechanisms are consistent with providing councils with flexibility while ensuring that decision-making reflects the need for transparency, clarity of purpose, and fiscal discipline.
- 2.13 It is important to realise that in spite of the proposed strengthening of governance provisions, the greatest discipline on councils in ensuring they stick to their core activities, will be having a purpose statement that is as unambiguous as possible with a clear focus on, amongst other things, the provision of local public goods. Other “controls” or restrictions are likely to be of marginal value by comparison.

4. Streamlining council reorganisation procedures

- 2.14 Proposals outlined in the Bill relating to council reorganisation are supported by BusinessNZ. It is important that where amalgamation would be economically efficient then, subject to the Bill’s (‘Act’s’) provisions, this should be undertaken relatively speedily.

APPENDIX 1

BACKGROUND INFORMATION ON BUSINESSNZ

BusinessNZ is New Zealand's largest business advocacy organisation.

Through its four founding member organisations – EMA Northern, EMA Central, Canterbury Employers' Chamber of Commerce and the Otago-Southland Employers' Association – and 70 affiliated trade and industry associations, BusinessNZ represents the views of over 76,000 employers and businesses, ranging from the smallest to the largest and reflecting the make-up of the New Zealand economy.

In addition to advocacy on behalf of enterprise, BusinessNZ contributes to Governmental and tripartite working parties and international bodies including the International Labour Organisation, the International Organisation of Employers and the Business and Industry Advisory Council to the Organisation for Economic Cooperation and Development.