



**Wellington Chamber of Commerce
to the
Governance & Administration Select Committee
on the
Local Government (Community Well-being) Amendment Bill**

May 2018

1.0 Introduction

- 1.1 The Wellington Chamber of Commerce (The Chamber) welcomes the opportunity to submit on the Local Government (Community Well-being) Amendment Bill (the "Bill").
- 1.2 The Chamber of Commerce has been the voice of business in the Wellington region for 161 years since 1856 and advocates policies that reflect the interests of the business community in both the city and region, and the development of the region's economy as a whole. The Chamber advocates the views of its members and obtains that view through regularly surveying members.
- 1.3 We are a business membership association, representing 3,400 members and their interests throughout the Wellington region, as well as being one of the four regional organisations comprising New Zealand's peak business advocacy group, BusinessNZ. In Wellington, our organisation operates the Wellington Chamber of Commerce, accredited to the New Zealand Chamber of Commerce network. Our organisation also delivers ExportNZ to Wellington, the Hawke's Bay and the Central region.
- 1.4 The Chamber has been closely following policy developments during and following the 2017 election, given the now Coalition Government campaigned on a range of employment law changes.
- 1.5 The Chamber wholly endorses both BusinessNZ's, Business Central's and the Local Government Business Forum's submission and comments.
- 1.6 The Local Government (Community Well-being) Amendment Bill has three objectives: *To restore the purpose of local government to 'promote the social, economic, environmental and cultural well-being of communities'; To restore territorial authorities' power to collect development contributions for any public*

amenities needed as a consequence of development, assisting in the provision of facilities such as sports grounds, swimming pools, and libraries; and; To make a minor modification to the development contributions power so it is clear recoverable advances of financial assistance from the New Zealand Transport Agency do not affect the power of territorial authorities to collect development contributions for projects financed using that mechanism.

- 1.7 Our submission will focus on objectives 1 and 2 (above). Objective 3 appears to be a rather technical amendment and as such is not an objective on which the Chamber wishes to comment.
- 1.8 The Chamber, like other submitters, is particularly concerned about the timing of the Bill in that 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'*.
- 1.9 We would reiterate the concern shared by submitters that it is 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.
- 1.10 The Chamber has actively supported the concept of an inquiry into local government costs and its revenue base given the pressures the sector is currently experiencing. This is true of both high growth and low-populated areas, where, in the latter case, infrastructure upgrades are needed but ratepayers' ability to pay is being squeezed. It is therefore pleasing to learn of the Government's intention to hold a Productivity Commission inquiry into local government funding.
- 1.11 Notwithstanding the above, the Chamber considers it desirable for local government to focus on the provision of local public goods, since their provision otherwise will likely be inadequate. There is little incentive for the private sector to provide goods and services where the return on investment is probably low or, in the worst case, non-existent.
- 1.12 There is potential for the Bill's proposed changes to result in significant expenditure creep, much of which will fall on the business sector, principally as a result of the wide-spread use of business differentials. For example, the business differential set by the Wellington City Council is currently 2.8:1, meaning businesses pay almost 3 times more in rates than households for an equivalent level of capital value. Further, the use of differentials in targeted rates mean that downtown Wellington City businesses are looking at a 8:1 differential for the regional public transport rate, it already making up in one rates bill example it is seven times the general rate total, making up \$53,000 of a \$62,000 regional rates bill.

- 1.13 The Chamber has concern about current local government expenditure and the role of local government. We have been considering what are ‘nice to haves’ and ‘need to haves’, and would generally question what local government expenditure should focus on, given the demands of ever growing infrastructure needs around three waters, core infrastructure, roads, and emergency management. The Chamber is acutely aware of current rising rates pressures faced by ratepayers across New Zealand as a result of ‘unfunded mandates’ and ‘funded un-mandates’ as well as an overlap and duplication in services provided by both local and central government – even under the current legislative framework. We believe the inquiry will address and provide further insight into these issues and is another reason for the bill to not proceed to the outcome of this process.
- 1.14 The Chamber recommends the Bill not proceed at this stage, at least until the public and/or Productivity Commission inquiry into the drivers of local government costs and its revenue base is concluded. An inquiry could flush out what changes to the Local Government Act (if any) are warranted, including different funding options.

2.0 Recommendations

- 2.1 The Chamber **recommends** that: the Bill not proceed at this stage and at least until an inquiry (public and/or Productivity Commission) into the drivers of local government costs and its revenue base concludes. An inquiry could propose changes to the Local Government Act (if any are considered necessary), including different funding options.
- 2.2 However, if it is determined that the Bill should proceed at this time, the Chamber supports the Local Government Business Forum recommendations the following amendments be adopted:
- (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.

3.0 Discussion

- 3.1 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.
- 3.2 The Chamber considers it desirable for local government to focus on the provision of local public goods, since it is likely their provision will otherwise be inadequate. There is little incentive for the private sector to provide goods and services where the return on investment is probably low or in the worst case, non-existent.

- 3.3 There are strong perceptions that local government is not as efficient and effective as it should be. This is reflected in Local Government New Zealand's own research which shows that *'local government does not have a strong reputation with business and the public'*¹.
- 3.4 While individuals, businesses, business organisations and ratepayer representatives all have different views on local government, one common thread is a concern over the increasing rates burden. The aggregate rates burden is running at close to twice the rate of inflation with in some cases, significant associated inequities. This is essentially a nation-wide issue, although the problem is greater with some councils than with others.²
- 3.5 The business sector pays about half 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 widespread use of business/commercial rating differentials despite strong evidence supporting their removal. Where councils have agreed to reduce the differentials, they have often been tardy in doing so, tending to incremental change due to 'expenditure pressures'.

4.0 The four well-beings

- 4.1 Bill seeks to restore the Local Government Act 2002's purpose prior to the 2012 amendment Act - *'to promote the social, economic, environmental and cultural well-being of communities', the four 'well-beings'*.
- 4.2 The 2012 amendment replaced the four well-beings with the more robust *'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 Chamber supported the 2012 amendment as more effectively clarifying local government's 'core' role. While there will always be arguments over the exact wording of the purpose statement and whether this can be improved, in general it would be fair to say the statement appears to be having a satisfactory effect. In no way that we are aware of has it stopped councils from getting involved in what should be their core activities.
- 4.4 The Chamber considered it a necessary measure to rein in the excessive growth in local government spending over the decade prior. To illustrate, from December 2002 to December 2012 (broadly the period when the four well-beings were in place):

¹ Local Government NZ, *Building a Stronger Local Government for New Zealand – a survey of New Zealanders' perceptions of local government 2015*.

² It is noted that a publication by the Controller and Auditor-General 'Local government: Results of the 2013/14 audits' (February 2015) had the following to say on rating practices. *'In our report last year, we highlighted some rating practices that did not comply with statutory requirements. Some local authorities justified these practices as being pragmatic. We stated our view that a pragmatic approach was an unacceptable risk, particularly given that the power to set rates is a power to tax people for services provided. Rating practices needed to improve.'* (p.5)

- 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%)³.
- 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 Chamber'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 2012 purpose statement has certainly provided better guidance as to councils' core activities (or what these should be) without being overly prescriptive.
- 4.11 Even if supporters of the current Bill have reservations about the 2012 changes, it is difficult to understand why the Bill is being pushed through ahead of the Labour-NZ First Coalition Agreement's promised public inquiry - *'to investigate the drivers of local government costs and its revenue base'*.
- 4.12 The inquiry may or may not determine whether one of the drivers of rates increases over the period from the introduction of the Local Government Act (in 2002) was the original purpose statement or whether the statement had

³ Statistics NZ Local Authority Statistics

little effect. However, without an inquiry decision, the current Bill is potentially advocating change for the sake of change, with no understanding of what the impact of its proposals might be.

- 4.13 At minimum, the Chamber would recommend the Bill be put on hold pending an inquiry into the drivers of local government costs and its revenue base. That will ensure any changes to the current Act are better informed.
- 4.14 The Chamber 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 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.
- 4.15 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.
- 4.16 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).
- 4.17 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 the current (2014) consultation provisions have been decidedly mixed and in some cases worse than the previous (2002) provisions.
- 4.18 The Chamber 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 is important for the sake of accountability that councils be required to report their activities and progress against well-being indicators, such as those in Treasury's Living Standards Framework.

- 4.19 To conclude on the four well-beings, the Chamber 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.
- 4.20 The Chamber 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.
- 4.21 It is disappointing that waiting for the outcome of the Inquiry was not mentioned as an option in the RIS.

5.0 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 the broad definition of community infrastructure applying prior to a 2014 amendment narrowing the Act’s definition.
- 5.2 The Chamber supported the 2014 amendment. Although we are not opposed to development contributions per se, our concerns prior to 2014 revolved around the lack of clarity in their use and the tendency for this to extend beyond a justified use – for example, into funding community infrastructure not a consequence of the development.
- 5.3 The Department of Internal Affairs’ *“Development Contributions Review Discussion Paper” (February 2013)* stated that in 2011, local authorities had an operating income of approximately \$7.3 billion, \$142 million (approximately 2.0%) of which was received from development and financial contributions. Some have asserted that as development contributions make up only about 2.0% of Council income, they cannot be considered a concern. However, this fails to recognise how development contributions impact on particular sectors of the economy, including housing affordability.
- 5.4 The Discussion Paper found that although contributions currently make up around 2.0% of all local authority operating income, contributions to individual councils can be much higher. For example in 2008, development

contributions made up between 10% and 20% of income for at least 10 territorial authorities, while in 2013, four territorial authorities expected to get over 7% of their income from development and other financial contributions.

- 5.5 Although the Chamber believes there is justification for development contributions, they need to be soundly based and not used simply as a revenue generating mechanism to fund general community developments, unrelated to direct development costs.
- 5.6 The Chamber therefore supported the 2014 changes which limited the charges councils can put on new housing developments to those which should rightly rest with a new development - as distinct from those of community benefit that should be paid by general ratepayers.
- 5.7 It should also be noted that in March 2010, the Local Government Business Forum (of which the Chamber is a member), in conjunction with the Property Council of New Zealand, published a paper on development contributions, '*Taxing Growth and Development*'. The paper, available on the Local Government Business Forum's website⁴, identified problems at the time with over-reliance on this funding tool and recommended a number of changes.
- 5.8 The report's key recommendations, which the Chamber would like to bring to the attention of the Select Committee, are:
1. Prices rather than development and financial contributions should be charged for goods and services where feasible and appropriate.
 2. There are grounds for imposing the cost of some genuine local public goods on landowners who benefit. The cost of supplying public goods such as neighbourhood parks, reserves, outdoor recreation facilities and stormwater systems that exclusively or predominantly service or enhance a development and are located within a development, may be appropriately imposed on relevant households and businesses by requiring the developer to pay for, or provide, the facilities. There should be a close connection between the subdivision or development on the one hand, and the relevant infrastructure and facilities on the other.
 3. Developers should have the right to appeal against the requirement to fund public goods, as is presently the case for financial, but not for development, contributions.
 4. Consideration should be given to making a value for money test a criterion for establishing the reasonableness of council requirements and charges. If that approach is not adopted, the maximum level of development contributions should be capped, as is generally the case of

⁴ See: <http://www.localgovtforum.org.nz/Documents/Documents-and-Reports/Taxing-Growth-and-Development.aspx>

Australia, and the principle of capping financial contributions should be retained.

- 5.9 The 2014 amendment was broadly consistent with the recommendations from '*Taxing Growth and Development*'.
- 5.10 We therefore recommend the Bill's current proposals in respect to expanding development contributions be deferred until there has been proper consultation with interested parties and the inquiry (or inquiries) into local government costs and its revenue base has concluded.

6. Conclusion

- 6.1 The Chamber 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.
- 6.2 The Chamber 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 Chamber 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 Chamber would appreciate the opportunity to present its submission to the Committee.