

## **Select Committee Report on the Local Government Amendment Bill**

The Local Government and Environment Select Committee Report on the Local Government Amendment Bill (“the Bill”) was released on Wednesday 3 November 2010. The Select Committee does not make any recommendations which substantially amend the Bill. This Bill should soon be passed by Parliament into law.

Both the Labour Party and the Green Party oppose the Bill because they are concerned about the provisions in the Bill allowing for the private ownership of water infrastructure for up to 35 years and removing the requirement for Councils to consult with the community when proposing to contract out of, or corporatize, Council activities. They also oppose the new definition of “community outcomes” and the requirement for Councils to “have particular regard” to a set of core activities. The Maori Party is also concerned that tangata whenua participation and involvement at local government level has not been addressed and provided for in the Bill.

The most noteworthy amendments made by the Select Committee are set out below:

### **Simplifying Plans and Consultation Requirements**

The Bill seeks to reduce the requirements for identifying and reporting on community outcomes. For example, Clause 4 amends the definition of “community outcomes” and Clause 12 repeals sections 91 and 92 which outline the process for identifying community outcomes and require Councils to periodically report on the progress made towards these outcomes.

The Select Committee has made a minor amendment to the definition of “community outcomes” by adding a reference to wellbeing “in the present and for the future”. The Select Committee supports the removal of sections 91 and 92 but, because some Councils are already preparing their three yearly reports and carrying out their six yearly review of community outcomes, the Select Committee recommends inserting new Clause 52A so that Councils can abandon this process if they so wish.

### **Pre-Election Report**

Clause 16 of the Bill inserts new section 99A to require the chief executive of each Council to produce a pre-election report containing a summary of financial information for the three years prior to the election (including a funding impact statement and summary balance sheet) and a statement setting out the extent to which the Council has complied with its financial strategy.

The Select Committee was concerned that requiring the chief executive to comment on the extent to which the local authority has complied with its financial strategy could politicise the chief executive’s role. The Select Committee has therefore recommended amending Part 4 of new Schedule 10 so that the chief executive’s statement is required only to compare actual rates, rate increases, borrowing and returns on investments.

In response to concerns that small Councils would not have the resources to provide the required information on time, the Select Committee has recommended amending Clause 16 and Schedule 10 to allow Councils with populations less than 20,000 to provide budgeted financial information for the financial year of the election, rather than unaudited estimates, in their pre-election report.

### **Performance Measures**

One of the most important changes proposed by the Bill is the requirement that the Secretary for Local Government provide regulations that establish rules specifying performance measures for water supply; sewage treatment/disposal; stormwater; flood protection and control works; and the provision of roads and footpaths (Clause 41).

The Select Committee recommends the inclusion of a purpose statement to make clear that performance measures are applicable to all local authorities, so that the public can compare the levels of service provided in relation to any of the infrastructure activities above, by different local authorities. The Select Committee also recommends the insertion of criteria to ensure that before making a rule, the Secretary considers whether an existing performance measure is suitable for the purpose, measures the level of service for a major aspect of the group of activities, addresses matters of widespread interest in communities, and contributes to the effective and efficient management of the group activities.

The Select Committee has amended Clause 41 to make clear that before a rule is made the Secretary must give notice and allow for the inspection of the material proposed to be incorporated by reference into the rule. The Secretary must also allow a reasonable opportunity for persons to comment on the proposal to incorporate the proposed material by reference and consider any comments made.

Clause 39 of the Bill requires Council to pay a levy to central government for the costs of establishing the rules for the performance measures. The Select Committee recommends inserting new section 259B to clarify that the ability to refund the levy only applies where the amount collected exceeds the amount necessary to recover the cost of developing the rules.

The Select Committee has also recommended inserting new Clause 45A to require Council controlled organisations delivering any of the 5 infrastructural services mentioned above to include specified performance measures and targets in their statements of intent.

### **Other Minor Amendments**

#### *Provision of Water Services*

Clauses 31 and 32 of the Bill enable contracts relating to the provision of water services to be increased from 15 years to 35 years. Despite a number of submitters arguing that water services should be publicly owned, controlled and managed the Select Committee has not changed the substance of these clauses. However, the Select Committee does make a minor amendment to Clause 32 to clarify that concession or other franchise agreements with non-local government organisations are prohibited, and the sale of existing local government infrastructure to a private partner (except where the local government organisation reasonably believed that the sale was incidental to the joint arrangement and desirable to the success of the arrangement) is also prohibited.

### **No Changes Made**

#### *Core Services, Community Consultation*

Clause 5 which inserts new section 11A requires Councils to have particular regard to the contribution of core services. The core services listed are:

- Network infrastructure;
- Public transport services;
- Solid waste collection and disposal;
- The avoidance of mitigation of natural hazards; and
- Libraries, museums, reserves, recreational facilities, and other community infrastructure.

Despite many submitters arguing that the list was unduly restrictive, the Select Committee did not make any amendments to this clause. The Select Committee found that this clause neither obliged the local authority to deliver these services, nor prevented the local authority providing services if deemed to be a priority for the local community.

The Bill proposes to remove some consultation and reporting requirements. For example, Clause 11 removes the requirement in section 88 to use the special consultative procedure for a change in delivery of a significant activity. A number of submitters raised concerns about these changes to the consultation requirements but the committee, by majority, considered that the remaining consultation provisions in the Local Government Act 2002 would ensure that the local authorities would continue to consider the views of the local community in their decision making processes.

Clause 12 of new Schedule 10 provided that a long term plan must contain a summary of the local authorities' affordable housing policy, if it has adopted one under the Affordable Housing: Enabling Territorial Authorities Act 2008. The Select Committee has deleted this policy without any reasoning.

We will provide a further update once the Bill is enacted.

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