



NATIONAL COUNCIL OF WOMEN OF NEW ZEALAND

TE KAUNIHERA WAHINE O AOTEAROA

26 July 2012

S12.24

Submission to the Local Government and Environment Committee Local Government Act 2002 Amendment Bill 2012

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 47 nationally organised societies and national members. It has 22 branches throughout the country attended by representatives of those societies and some 150 other societies as well as individual members. NCWNZ's function is to represent and promote the interests of New Zealand women through research, discussion and action.

This submission has been prepared by the Parliamentary Watch Committee after consultation with the membership of NCWNZ via branches throughout New Zealand.

Introduction

In 2010 the NCWNZ submission S10.18 on the Local Government Act 2002 Amendment Bill made reference to the "ever-rising rates burden" but urged that public consultation and attention to environmental sustainability and conservation should be maintained.

Responses to the 2012 Bill have been focussed on maintaining a balance between the rising costs of the provision of services and the maintenance of infrastructure, and the broader needs for community facilities and the important amenities that people have a right to expect. It was acknowledged that most ratepayers would be sympathetic to any legislative restraint on local authority expenditure which for many years has increased annually at a rate often well above inflation. However, there was a risk that if local authorities are limited by statute to the so-called core functions of drainage, water supply, roads and public health and safety etc, most areas will suffer from a lack of important amenities that people have a right to expect (such as libraries, parks, sports facilities, art galleries and museums).

It was considered that it was this gap in the legislation that led to a widening of the permitted functions to include "the social, environmental and cultural well being of communities" in the 2002 Act. The term "disaster" was used if local authorities were to be excluded from carrying out such functions. The conundrum is how to retain the broad mandate entrusted to local government in the existing legislation without imposing an intolerable financial burden on the ratepayers.

Purpose of Local Government

The two key clauses in the Bill which were indentified, and those which caused the most concern, were **Clauses 4 and 7** which replaced the purpose in the Act Section 3 (d) and section 10 (b).

In the 2002 Act 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 in the future”

The Bill takes the position that the current law does not adequately focus councils on operating efficiently or delivering those services that only councils can provide and performing those roles that only councils can perform. Therefore there is emphasis on curtailing and refocusing the activities of local government to contain costs and provide efficiency gains from council reorganisation.

Clause 4 (Section 3 amended)

“provides for local authorities to play a broad role in meeting the current needs of their communities for good-quality local infrastructure, local public services, and performance of regulatory functions”

Clause 7 replaces section 10(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”

Strong concern was expressed that important issues such as protecting the environment and maintaining social well-being of the community are missing from the government’s priorities.

The blame for Local Government undertaking more functions than necessary was thought to fall squarely at the foot of Central Government which for many years, during successive Governments, has been guilty of a devolution of powers and responsibilities. These have been forced on Local Government through legislation, but without the financial contributions from Central Government to undertake these roles and responsibilities. There have been several “rates revolts” caused by this lack of Central Government funding and the need for large rate increases by Local Government to cover costs to manage the requirements. Members provided examples of the blurring of demarcation lines in their areas. These included: Territorial Local Authorities taking on environmental responsibilities that were originally delegated through legislation to Regional Councils; in some cases TLAs have undertaken delivery of public transport because the Regional Council has not (eg Waikato and Christchurch); and in the case of Christchurch/Canterbury very poor fresh water management resulted in Central Government intervening.

Other points made related to:

- The natural environment cannot be well managed by Central Government which, in recent years, has greatly reduced funding and staff levels within the Ministry for the Environment and the Department of Conservation.
- Cultural responsibilities. While it was thought that cultural responsibilities should in part be in the realm of Central Government, Central Government should then support those organisations that provide services to their membership. In relation to Maori culture - Central Government is the Treaty Partner – not Local Government. However, cultural programmes bind a community together and local government should encourage, promote and help fund-raise for cultural events and programmes. Several branches pointed out that it was Central Government which encouraged local councils to get involved in cultural activities to support the Rugby World Cup.
- In some areas cultural activities were seen to be “some of the fabric of our communities” and there were fears that this could vanish under a strict interpretation of the proposed legislation. Examples of social and cultural activities provided included: Pacifika, Lantern Festival, Otago Market, and Diwali, multi-ethnic festivals and the Petone Fair. ‘People-capital’ in communities was considered important and needed investment to maintain the spirit of people and communities.
- Arts funding. Several responses asked where funding for libraries, art galleries, performing arts centres, regional botanic gardens would come from? The arts, visual and performing, as well as libraries, are an essential part of local communities and in the main should be

assisted by local government, although much funding comes from central government and agencies such as Lottery grants.

- Job creation programmes. Another concern expressed was that the Bill may remove some of the powers of councils to meet local needs and the example was given of job creation programmes in places such as Otorohanga, where there is now no unemployment. Such programmes provided employment and skills learning for many people.

It was generally held that Local Governments should retain the existing environmental and cultural responsibilities under the Act but that prudent financial management should be exercised. The importance of the cultural and environmental aspects to attract new residents and tourists to stimulate the economy was also noted. Under the new proposals, libraries and art galleries would have to close - these are important to the life of communities. Historical sites would not be maintained. A process is needed for local consultation and for managing local input. Cultural activities add to the richness of life. The importance of the social wellbeing of the community was also stressed.

Reorganisation of Local Authorities

Substantive comments were received on the proposals to amend the provisions of the Act relating to reorganisation. The Bill amends local government reorganisation procedures, particularly in relation to the powers of the Local Government Commission to develop reorganisation proposals.

Clauses 10 and 11 of the Bill contain extensive amendments to section 24 of the principal Act. Schedule 1 of the Bill replaces Schedule 3 of the principal Act (which comprises 70 sections and runs to 45 pages). Indeed the replacement Schedule is somewhat simplified and has 43 sections and covers 31 pages.

Some considered that the proposals seemed sound and logical, provided the Local Government Commission is given clear Terms of Reference to work with and outcomes that show clear, low cost benefits to ratepayers. However, the view was held by others that reorganisation was not required unless there was a gross failure to carry out the basic functions.

Another concern was that the present Act provides that a reorganization proposal may be submitted when there is an alteration of a boundary or a transfer of a responsibility.... and may be made by an affected local authority or "by a petition signed by at least 10% of the electors of the area subject to the proposed reorganization..." The changes to the bill will allow an application for reorganization to be made by "any person or organization" (**Schedule 1, clause 2 (1)**). This could result in a stream of individual applications by separate citizens who are only representing themselves, and might not even represent 10% of the population (as per the requirement in the LGA 2002).

Members from the Auckland region were not impressed with the Auckland super city model and did not want to see it imposed on other regions. The view of a Waikato group was "We would not be in favour of a super city that had Hamilton as the centre."

Another group stated

"[We need] something better than the Auckland process. The Royal Commission was a waste of time and money (billed to the Auckland ratepayer) as their recommendations were not implemented – the change was rather at the whim of the Local Government Minister. More input and more responsibilities should be devolved to the Local Government Commission which should be increased from three Commissioners to six for the purpose of reorganisation. All six must have been actively involved in Local Government governance or management."

A strongly held view was that reorganisation should only be carried out in full consultation with the communities affected. Amalgamation is not always the best choice, and should be carried out, if at all, with geographic location and areas of interest (e.g. rural and farming areas) firmly in mind. Smaller centres that have successfully maintained cultural, social and sporting services through the efforts of volunteers as well as the support of local government, are in danger of losing those amenities through the inevitable centrism of a 'super city'.

An overall concern was with the process outlined in the Bill.

"As drafted, the Bill will result in a random and haphazard pattern of councils throughout NZ. Amalgamation proposals may well be driven by individuals, often narrowly focussed pressure groups, who put forward re-organisation applications. It will not be driven by wider considerations or by principles. The Bill contains no statement of principles."

Many of the responses did acknowledge that fewer local authorities would be more efficient and effective with examples given. "Geographic regions should be reviewed and rationalized. There should be one Hutt Valley Council not two areas of Upper and Lower Hutt with two mayors and two councils."

Other proposed Amendments

Clause 19 and 20. There was support for retaining the four well-beings "*social, economic, environmental, and cultural well-being* - of the district or region" – which are now to be replaced by "interests" in section 77. The comment was made that "the 'four well-beings' are very important because they serve as a framework for decision-making in our community and are shared by the people in our city. The replacement phrase changes the fundamental way the relationship between the council and the people of the city is perceived."

Powers of the Minister to act in relation to local authorities

Clause 21 replaces Part 10 of the principal Act

The Bill confers powers on the Minister to- (a) assist local authorities in certain situations: and (b) intervene in the affairs of local authorities in certain situations.

The new sections 253 to 258T cover Ministerial powers of assistance and intervention (subpart 1) and General Provisions (subpart 2). The Minister can now appoint a Crown Review team, Crown Observer, Crown Manager, a Commission and call an election and this expands on the provisions in Part 10 of the principal Act.

"Problems" warranting Ministerial intervention are now defined (new section 254) and include "a failure to demonstrate prudent management of its revenues, assets and investments, and general financial dealings..."

It was noted that all the changes strengthen the powers of the Minister to 'set measures and expectations', even to the point of having the Minister specify these without necessarily consulting the Local Government Commission before determining them. This autocratic approach is contrary to democratic principles. It was thought that the expectations of any reorganisation should be agreed – not only between the Commission and the Minister, but also with the local bodies affected - before they are finalised.

Intervention by government is likely to be the result of certain ‘triggers’ such as high increases in rates, and unacceptable spending by local councils. It is understood that the local councils want to have a say as to what the triggers are that will result in government intervention.

Central government can intervene in the way the city is governed and appoint its own unelected city manager. This was considered to be an undemocratic feature because it removes decision-making and authority from the democratically elected representatives.

Conclusion

The opportunity to comment on the Bill was taken up by NCWNZ groups and individuals throughout New Zealand and represents a range of views from both rural and urban constituents. While it was generally acknowledged that sound financial management and the curtailment of rates increases are necessary in the current economic climate, a number of cautions were expressed, especially with regard to the need to protect democratic principles at local government level.

The major focus of the responses related to the changes proposed under “Purpose of local government” (clauses 4 and 7) where the removal of the “environmental and cultural wellbeing” component was a major cause for concern. While recent statements by the Minister for Local Government suggest that the new “purpose” wording “local public services” could cover these aspects, members wanted the legislation to retain the responsibilities as stated in the current Local Government Act 2002.

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