



**National Council of  
Women of New Zealand**

Te Kaunihera  
Wahine O Aotearoa

National Office  
Level 4 Central House  
26 Brandon Street  
PO Box 25-498  
Wellington 6146  
(04)473 76 23  
office@ncwnz.org.nz  
www.ncwnz.org.nz

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## **Submission to the Local Government and Environment Select Committee on the Local Government Act 2002 Amendment Bill (No 3) (165-1)**

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 30 organisations affiliated at national level and a further 40 organisations affiliated at branch level. It has 22 branches throughout the country attended by representatives of these organisations, 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 NCWNZ Public Issues Standing Committee and the Parliamentary Watch Committee after consultation with the membership of NCWNZ.

NCWNZ maintains a strong interest in civic affairs, with its first policy on local government established in 1899 being on the reform of local government.

### **cl. 6 Section 11A amended (Core services to be considered in performing role)**

In discussing the proposed amendment to core services, most identified that such services were those that could not be effectively carried out by another deliverer, with examples given of libraries, art galleries, museums, reserves and other recreational and community facilities; servicing the network infrastructure and the avoidance or mitigation of natural hazards. Some felt that as public transport services and solid waste collection and disposal could be contracted out, they should not be considered to be core services.

Overall, the change introduced in cl. 6 to amend s.11A(e) to "other recreational and community facilities" is supported. It was felt however that there needs to be a definition that identifies what is covered by the phrase as communities have broadened their concept of what constitutes recreation for them, eg cycle tracks.

There was concern expressed about the removal of the word "infrastructure" as it was felt that this would include personnel whereas these could be seen to be excluded by using the word "facilities". It is hoped that the change will not curtail or severely limit some excellent (and often quite inexpensive) council initiatives. A core service might also be deemed to be one that only the council is able to provide in a particular area, eg electricity generation in an isolated situation.

It is also noted that the phrase "community infrastructure" continues to be used in other parts of the Bill, eg in cl.49 which amends the interpretation in s.197(1) of the Act.

In their responses the following were also indicated as items that should be considered core services:

- cemeteries and crematoria
- monitoring and conservation of the environment
- maintaining and improving public health

The Explanatory Notes state that *Councils must be able to play their part in creating an environment conducive to sustained economic growth*<sup>1</sup> and the Bill in cl.34 (new 101B(3)(d)) introduces the requirement to *maintain or improve public health and environmental outcomes or mitigate adverse effects on them*<sup>2</sup>. The Bill should make specific recognition that without a healthy physical environment, sustained economic development is at risk.

One of our affiliated organisations, the New Zealand Nurses Organisation, states that health is significantly affected by local environmental factors, and many of the main components for safe, healthy living (air and water quality, transport, access to services, facilities etc) are influenced by local government decisions. Healthy living and strong engaged communities are sustained through good planning decisions that, for example, ensure enough nearby open spaces (particularly as urban density increases) for rest and recreation, control over the number and placement of alcohol outlets, and ensure equitable access to services.

### **cl. 7 Section 14 amended (Principles relating to local authorities)**

NCWNZ supports the amended principles. The amendments should encourage the active collaboration of local authorities. There were some responses that would prefer the phrase “should actively seek to collaborate and co-operate” to be expressed more strongly by replacing *should* with *must*.

An example of where collaboration is already working is the Wanganui District Council co-operation with Rangitikei and Ruapehu with some shared services. If the proposed future management of the entire Whanganui River proceeds, it will require the co-operation and collaboration of these three Councils to be successful as the Whanganui River passes through all three Districts on its journey from the mountains in the central North Island to the sea. Responsibility for the services for the River, the River Road and the local communities along the River, will need to be jointly planned, provided and funded for by the three Councils.

There is potential that a difference in standards and priorities within different local authorities could be a barrier to collaboration. National guidelines may have to be considered for some decentralised responsibilities.

Comment was made about the removal of the words “efficient use of resources”. Simply being efficient at achieving priorities does not highlight that it does so by making efficient use of resources. Inclusion of planning for future management of assets is appropriate. A good strong plan for maintenance and planned replacement is essential as there is no benefit in building a recreation centre for example if no provision is made for future upkeep and eventual replacement of that asset.

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<sup>1</sup> Local Government Act 2002 Amendment Bill (No.3) 165-1: Explanatory note p.1.

<sup>2</sup> Local Government Act 2002 Amendment Bill (No.3) 165-1 p.42.

Regional councils manage natural resources and some services for the mutual benefit of a whole region when these resources and services cross local authority boundaries. Concerns were raised that the legislation allows for the possibility that small unitary authorities could be created and given responsibility for managing the natural resources in their own areas that were formerly the responsibility of a regional council. A small unitary authority may not have the financial resources or expertise to manage the extra responsibilities conferred on it. For example, a unitary authority for the Wairarapa, which would take on these wider responsibilities in its own area, has already been suggested. The possibility that a working regional council could be broken down in this way is inconsistent with the amendments proposed in cl.7 to s.14 of the Act. The environmental functions currently undertaken by Regional Council must continue to be undertaken within local government. The planning side should be more positive as there is no fighting between layers of Local govt.

### **cl. 11 New section 17A inserted (Delivery of services)**

There were concerns raised about the introduction of new s.17A. Some responses supported the proposal, with the review occurring as soon as practicable after an election. More felt it was introducing unnecessary bureaucracy as such reviews occur annually as part of standard Finance Committee practice, and within the Long Term and Annual Plan processes. As well, Councils are audited each year.

Members do not support the option of complete privatisation of service delivery. There should be no possibility of services being managed for private profit rather than for the benefit of the local people<sup>3</sup>.

### **cl. 15 New subpart 1A of Part 4 inserted**

#### ***48E Membership of local boards***

The membership was divided on how the chair of a local board should be determined.

About half of the respondents supported chair being elected by the community, with the most being concerned that where the board elected the chair there was the possibility of a group of people taking control of a board. There must be an open, democratic system in place to prevent a board stacked with like-minded people appointing one of their own as chair and taking control.

Some of those supporting the election of the chair by the board wanted this to be by secret ballot and not a show of hands. One of the arguments favouring election by board members was that it was easier to replace the chair if there were performance issues, whereas a chair elected by the community at large can only be replaced when the there-yearly elections are held.

#### ***48H Functions, duties, and powers of local boards***

NCWNZ supports the functions, duties and powers as outlined in cl.15 (new s.48H). The list seems quite comprehensive. Whether it will work in practice to the satisfaction of local boards and their communities remains to be seen when there is experience of the specific content of local board agreements with their local authority. There is bound to be considerable debate around specific functions, duties and powers that can be delegated.

There was a suggestion that the local board should have the ability to have input to Council Controlled Organisations.

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<sup>3</sup> See for example Harris, P, Turner, J, Werry, D. (2011). A tale of two networks.

It was also felt that each Board must have the right to negotiate with its Council for its independence according to the uniqueness of the area the Board represents. The major issue is the level of delegated authority. If there is very little then the community board is toothless. It is important that there is an allocation of funding to the community board that will allow it to exercise its delegated powers. The delegated powers should be as broad as possible. The boards should be heavily involved in the developmental stages of the annual and long term plans rather than just being consulted once the plans are more or less ready for public consultation. This should be written in as a specific responsibility.

### **cl. 21 Section 82 amended (Principles of consultation)**

The membership mostly disagreed with amending the existing s. 82(1)(f):

that persons who present views to the local authority should be provided by the local authority with information concerning both the relevant decisions and the reasons for those decisions.

to

that persons who present views to the local authority should have access to a clear record or description of relevant decisions made by the local authority.

Such a response would suffice where there are a multitude of submissions in a standard format. Some felt that the current personalised response could be modified provided provision is made to adequately inform those who do not have access to the internet. While modern technology can facilitate and expedite consultation it must be remembered that quite a large proportion of our population do not have access to such technology nor the skills required to use it.

Most felt that each submitter is entitled to an individual response. The change might be appropriate for consultation for planning documents but not for the Annual Plan/Long Term Plan process. A general decision on the issue may be the bulk of the response but submitters need a clear description of relevant decisions made and an indication of the action to be taken. This leaves the submitter with a belief that their submission has been considered. Not getting at least a brief personalised response leaves a feeling of confusion about whether consultation has been effective and whether in fact a submission has indeed been read.

Personalised responses to individual approaches to Councils outside of official consultations should still be possible. Local authorities should continue to publicise council matters in the relevant local newspapers.

### **cl. 34 New section 101B inserted (Infrastructure strategy)**

NCWNZ supports the development of an infrastructure strategy and agree with the need to identify significant infrastructure issues and the principal options for managing them, and the implications for these options. In particular, we are pleased to see that new s.101B(3) and (4) outline details required to be considered in long term infrastructure planning. Thinking 30 or more years ahead is not the same as extrapolating past experience into the future. Answers have to be found for different "what if scenarios. Long term infrastructure plans should contain contingency plans for likely events such as a major earthquake in the Wellington region.

There were a range of responses from within the membership to period that such a strategy should cover. These were:

- 15 years, given that changes and innovations happening now will continue and there will be new ways of doing things
- 20 years, as this is more in keeping with the infrastructure life
- 25 years because it is a quarter century
- 30 years seems an appropriate period
- 50 years because it is a half century. A 30 year planning horizon may not be long enough. Note that the Wellington Regional Council already plans for the increasing probability of “100 year” floods. Shorter term planning can mean that longer term effects such as climate change are not adequately taken into account. One recent example from Hutt City Council was a proposal to redevelop the McKenzie Baths. One alternative suggested was to rebuild the baths on the Petone foreshore. This proposal completely ignored the likely effects of sea level rise expected this century.

Whatever the timeframe, there needs to be regular reviews of the infrastructure strategy, as part of the Long Term and Annual Planning processes.

#### **cl. 48 New sections 197AA and 197AB inserted**

There were concerns that the emphasis on development and the right to develop is not sufficiently balanced by a requirement to consider environmental and social effects.

Indirect, long term societal costs are rarely factored into traditional economic frameworks and methodologies used to support *building a more competitive and productive economy ... [and] ... creating an environment conducive to sustained economic growth*<sup>4</sup>, despite their fundamental impact on productivity and "the bottom line". There are considerable economic costs of not addressing child health inequalities<sup>56</sup>. Such evidence indicates the need for broader based policy and regulation, rather than narrowing and limiting developer responsibilities as seems to be the intention in Clause 48.

Health, equity and sustainability should be prime factors considered in the analysis of local development projects and that building and sustaining healthy and safe communities should be an acknowledged goal. There should be a health impact assessment (HIA) made mandatory for all developments<sup>7</sup>.

#### **197AB Development contributions principles**

NCWNZ supports the development contribution principles as outlined in new s.197AB, particularly principle (e). They are flexible and can be relevant to each development. For example, the contribution required from the developer of new housing could be used to help pay for its roading, water or sewage infrastructure.

New s.197AB(c) is not clear as to whom the persons are who will benefit from the assets to be provided and who are those who will create the need for those assets.

<sup>4</sup> Local Government Act 2002 Amendment Bill (No.3) 165-1: Explanatory note p.1

<sup>5</sup> Clair Mills, PR. (2012). *The cost of child health inequalities in Aotearoa New Zealand: a preliminary scoping study*. BMC public health, 12: 284.

<sup>6</sup> Commission on Social Determinants of Health. (2008). *Closing the gap in a generation: health equity through action on the social determinants of health*. Geneva: WHO.

<sup>7</sup> Blackwell, A; Macmillan, A; Tenbenschel, T, (2011). *Achieving healthy urban planning: a comparison of three methods*. Wellington: Ministry of Health.

In support of new s.197AB(d), there was a suggestion that a set percentage or an agreed ratio should be applied within the community of interest where the development is taking place to ensure that the infrastructure needs are met. Our members were clear that development contributions collected in one part of the territorial authority should be used within that part and not in some other part of the region. This section, while apparently fair, may result in residential ratepayers subsidising developers in the provision of necessary community facilities and services. This is an extremely sensitive and volatile area and difficult to evaluate because of the geographic differences of each council.

### **Conclusion**

NCWNZ continues to debate and raise issues of concern in legislation affecting the administration of local government. The membership is particularly concerned about changes that might impact on existing democratic rights.

NCWNZ wishes to appear before the Select Committee to present its submission.

Barbara Arnold  
President

Beryl Anderson  
Convener, Public Issues Standing Committee