Submission by

BusinessNZ

GROWING PROSPERITY AND POTENTIAL

to the

Governance & Administration Select Committee

on the

Local Government (Community Well-being) Amendment Bill

May 2018

SUBMISSION BY BUSINESSNZ[1] ON THE LOCAL GOVERNMENT (COMMUNITY WELL-BEING) AMENDMENT BILL

1.0 Introduction

1.1 BusinessNZ welcomes the opportunity to submit on the Local Government (Community Well-being) Amendment Bill (the "Bill").

1.2 The Local Government (Community Well-being) Amendment Bill has three objectives:

1. To restore the purpose of local government to '*promote the social, economic, environmental and cultural well-being of communities';*
2. 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
3. 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.

1.3 The 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 BusinessNZ wishes to comment.

1.4 BusinessNZ is particularly concerned about the timing of the Bill in that it prejudges the public inquiry promised in the Labour-NZ First Coalition Agreement - '*to investigate the drivers of local government costs and its revenue base'.*

1.5 BusinessNZ 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] Background information on BusinessNZ is included as Appendix 1.

1.6 Notwithstanding the above, BusinessNZ 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.

1.7 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.

1.8 BusinessNZ 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.

Recommendations

BusinessNZ **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.

2.0 Discussion

2.1 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.

2.2 BusinessNZ 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.

2.3 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'*[2].

2.4 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.[3]

2.5 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'.

3.0 <u>The four well-beings</u>

3.1 The 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'.*

3.2 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.'*

3.3 BusinessNZ 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.

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

[3] 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)*

3.4 The 2012 purpose statement has certainly provided better guidance as to councils' core activities (or what these should be) without being overly prescriptive.

3.5 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'.*

3.6 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 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.

3.7 At minimum, BusinessNZ 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.

4.0 Development Contributions

4.1 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.

4.2 BusinessNZ 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.

4.3 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.

4.4 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.

4.5 Although BusinessNZ 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.

4.6 BusinessNZ 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.

4.7 It should also be noted that in March 2010, the Local Government Business Forum (of which BusinessNZ 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 Forum's website[4], identified problems at the time with over-reliance on this funding tool and recommended a number of changes.

4.8 The report's key recommendations, which BusinessNZ 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.

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

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

4.9 The 2014 amendment was broadly consistent with the recommendations from '*Taxing Growth and Development'.* BusinessNZ notes the change came after a 2013 consultation with interested parties, including BusinessNZ.

4.10 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.

APPENDIX 1

BusinessNZ

GROWING PROSPERITY AND POTENTIAL

Promoting New Zealand's success through sustainable market-led growth

BusinessNZ is New Zealand's largest business advocacy body, representing the majority of New Zealand private sector companies as members, affiliates or through membership of BusinessNZ divisions such as the Major Companies Group, ExportNZ, ManufacturingNZ, Sustainable Business Council and Buy NZ Made.

BusinessNZ represents around 14,000 businesses that are members of four regional business organisations:

Employers & Manufacturers Association *(EMA) - northern half of North Island*
Business Central *- central region*
Canterbury Employers' Chamber of Commerce *(CECC)*
Otago-Southland Employers' Association *(OSEA)*

BusinessNZ's **Major Companies Group** *(MCG) works with and represents around 80 of New Zealand's largest companies.*

ExportNZ *and* **ManufacturingNZ** *work with and advocate for New Zealand exporters and manufacturers.*

The **Sustainable Business Council** *(SBC) provides mainstream leadership on sustainable business matters.*

The **BusinessNZ Energy Council** *(BEC) is a group of New Zealand organisations taking on a leading role in creating a sustainable energy future for New Zealand.*

The *Buy NZ Made* Campaign encourages consumers and organisations to help create local jobs and growth by buying New Zealand goods and services.

BusinessNZ's *Affiliated Industries Group* (AIG) is a grouping of 75 industry associations affiliated to BusinessNZ that work together on pan-industry issues.