

Submission

Local Government Act 2002 Amendment Bill (No2) 2016

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Introduction

Ashburton District Council (the Council) appreciates the opportunity to make this submission on the Local Government Act 2002 Amendment Bill (No2) 2016 (the Bill). Council would like to be heard in support of this submission.

1. General Comments

Ashburton District Council does not support the Bill as currently drafted. Although we applaud the drive for cost effectiveness and accountability which we ourselves have been working towards, we cannot in good conscience support the implications of the proposed Bill on the principles of local democracy. We strongly suggest this Bill is withdrawn and the Minister of Local Government and the Department of Internal Affairs work closer with Local Government New Zealand (LGNZ) and the Society of Local Government Managers (SOLGM) to find workable solutions that will support greater collaboration between territorial authorities and improve core service delivery for our communities.

Council is of the opinion this Bill was drafted in haste and lacks any robust analysis to support that the contention that the actions proposed will achieve what it sets out to. We are disappointed that this Bill was developed without consultation with the local government sector. The Bill ignores any evidence that good collaboration and cooperation occurs at the local government level already. It appears to centralise much of the decision making that currently lies under the mandate of local communities and their elected representatives in the interests of making changes that Wellington-based politicians want to see occur faster. At this year's NZ Planning Institute Conference, Sir Geoffrey Palmer spoke on his beliefs about the raft of legislative changes this current Government is trying to introduce which, in his eyes, undermines the purpose and intent of local government and contradicts the principle of subsidiarity. His speech says:

*"Local government needs more constitutional autonomy in New Zealand than it enjoys. Too often it is regarded as the agent of central government to be kicked around and told what to do and not properly consulted. There is little doubt that the local government legislation in NZ is defective. Whenever a new government comes in it changes the legislation and often in ways that are incomplete and unclear. Constant meddling with the local government legislation is as counter-productive as the constant meddling with resource management legislation."*¹

Sir Geoffrey summarises the following trends he observed with another legislative change this government is proposing:

- *Greater Ministerial control and centralised decision making that overrides local planning decisions;*
- *Reduced opportunities for public participation in decisions that will affect local communities; and,*
- *Emphasis on speed, rather than quality, of decision-making.*²

Although written for a different amendment bill, Council feels these three trends are also evident in the Local Government Act 2002 Amendment Bill (No 2) and it appears to be a push for centralised control of community assets.

¹ Sir Geoffrey Palmer, NZPI Conference Key Note Address: *The Resource Legislation Amendment Bill, the Productivity Commission Report and the Future of Planning for the Environment in New Zealand*. April 2016.

² Ibid

2. Implications on Democracy

Ashburton District Council supports the positions of LGNZ, SOLGM and the Canterbury Mayoral Forum (the Forum) in that this Bill undermines the principles of democracy and the fundamental reason for having local government. Council believes the following points give specific examples of its concerns of the draft Bill's proposals and supports SOLGM's recommendations to remedy these:

- a. The ability for the Minister and Local Government Commission to initiate investigations of reorganisation unilaterally without any input, consent, or information from the local authority in question;
- b. The ability for committees or joint committees to be established and given potential bylaw powers without any community input;
- c. The ability for reorganisation to occur with no evidence of community support for the proposed changes as the community is not provided any opportunity to give its views (i.e. through a referendum or poll);
- d. The ability for core services to be removed from local authorities (i.e. roading, water, regulatory) which leaves fewer activities that local communities will be able to be consulted on through Long Term Planning or Annual Planning processes, and effectively reduces the power of councils;
- e. The ability for any investigation to be initiated based on an (incorrect) assumption that if a particular solution worked for one local authority it would work for all;
- f. The ability for Council Controlled Organisations (CCOs) to develop service delivery plans and infrastructure strategies outside of a normal consultative procedure for local government, but requiring funding from territorial authorities (usually from rates) to deliver on services the community itself has not determined; and,
- g. The ability for CCOs to direct councils on their development contributions policy without the need for wider community consultation.

3. Good Local Government

Ashburton District Council supports the LGNZ, SOLGM and Forum's submissions on the following points:

- a. The principle of "good local government" needs to be clearly articulated in any proposed legislation that is designed to provide the mechanisms to achieve this principle;
- b. The proposed reorganisation changes need to provide evidence of how the intended outcomes will contribute to (improved) "good local government";
- c. The acquisition of scale does not necessarily translate into benefits when dealing with smaller local authorities in provinces or the rural sector with remote communities. Network pricing works in Ashburton District as it allows Council to obtain the best deals to provide services to smaller communities, but if this was to be centralised there is concern that these smaller communities would miss out on having their services responded to in a timely fashion; and,
- d. The assumed relationship between rate increases and inflation is flawed at best – Council agrees with SOLGM that the infrastructure cost increases have surpassed the Consumer Price Index and with people's higher expectations for core services, the increased costs that Councils face have to be funded by rates in the absence of central government funding.

4. Performance Measures

Ashburton District Council supports the SOLGM and Forum's submissions on these specific concerns about the changes on performance measures that this Bill proposes:

- a. Performance measures arbitrarily set for local government activities by central government often do little to effectively gauge good business practice, but instead attempt to set benchmarks for comparison without taking into consideration local issues or differences in service delivery mechanisms. Imposing more performance measures without consultation with councils will create bigger rifts as the focus will be on obtaining better figures rather than better services (the tail wagging the dog);
- b. The lack of lead-in time for any new performance measures will not enable good data to be obtained by councils if they have no processes in place for those particular measures; and,

- c. The lack of guidance documents on any new performance measures will need to be addressed to ensure consistency between local authorities, particularly if those measures are going to be benchmarked.

Council would like to see a review of the current mandatory performance measures as there are some that have no relationship to Council’s activities under its control; for instance, road crash statistics or flood events not due solely to Council infrastructure failings.

5. Taxation

Ashburton District Council supports the SOLGM submission about the tax implications of the Bill. CCOs that take over core Council services such as infrastructure and regulatory functions should have the same tax rules applied as a local authority.

6. Conclusion

Ashburton District Council recognises the intent of the Minister to improve the cost effectiveness and accountability of local government for core infrastructure services and agrees that improvements across the sector are desirable. We support those measures in the Bill that work towards those ends. However, in its present form, those positive aspects are outweighed by the negatives that we, and others, have identified through this submission process.

Council supports the general principles of each submission from LGNZ, SOLGM, and the Canterbury Mayoral Forum. We have identified some of the specific concerns raised by each, along with Sir Geoffrey Palmer’s comments that we believe to be pertinent to our concerns with the Bill. We prefer that the Minister withdraws the Bill and a new one is drafted in collaboration with the local government sector and the Department of Internal Affairs.

Local government has proven it can work collaboratively on a number of fronts – including in Canterbury as the Forum specifies in their submission – and CCOs already exist throughout the country providing infrastructure services. Ashburton is now in the Mid-South Canterbury Rural Fire Authority – an amalgamation of four territorial authorities, Department of Conservation, and private fire companies – and has worked collectively with neighbouring Canterbury councils to renegotiate better roading contracts. Ashburton District Council has facilitated the sharing of water resources with neighbouring local authorities through Rangitata Diversion Race Ltd. and the Ashburton Community Water Trust. If these things can happen currently under existing legislation, we question the need to impose central government directives through this amendment. We suggest the better approach is enabling councils to develop solutions for their local communities based on sound evidence of need and the robust analysis of options, as we have shown is possible.

We suggest that any reforms of the Local Government Act look at some of the current processes outlined in the Act that do not reflect the advances in modern technology; for instance, the requirement to print public notices in newspapers instead of online or using social media. There will be other suggestions that LGNZ and SOLGM can offer for a proposed amendment to the current Act that would be beneficial to the sector.

Thank you for your consideration of this submission.

Ashburton District Council would like to be heard in support of the submission.



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