# New Local Government Act Amendment Proposed

On Monday the 4th November Hon Chris Tremain introduced the Local Government Act 2002 Amendment Bill (No 3) ("Amendment Bill"). This Amendment Bill does not have the fundamental changes that the last round of reform had. Instead changes relate to: the provisions around development contributions; providing for Local Boards like those already operating in Auckland; reducing some of the need for undertaking a special consultative procedure; requiring a new infrastructure planning policy for asset management purposes; and allowing audio and audio-visual communication at meetings. Whilst many of these changes are important they look to be balanced and not widely contentious. The Amendment Bill has been sent to the Local Government and Environment Select Committee and submissions are due by 14th February 2014.

### Development Contributions

In March the Government called for submissions on an options paper on development contributions that included some proposals that would have gutted the current system. Instead of radically changing the current provisions there is some clarification and restrictions around what developers pay. In addition there is a new review process and a detailed process for objections by an independent commissioner.

The current section 199 (which is not amended) establishes what development contributions can be required for being: reserves; network infrastructure; and community infrastructure. The main limitation comes with the amendment to the definition of "community infrastructure". Currently the definition is for land or assets to provide "public amenities". The Amendment Bill removes this general reference to "public amenities" and specifies what is included being: community halls; play equipment on "neighbourhood reserves"; and public toilets (clause 49 amends section 197). This is an important change and means that items such as a stadium will not be able to have a development contributions component to their funding.

There are new purpose provisions that set the scene for development contributions (clause 48) relating to a proportional and fair "portion of the costs… necessary to service growth". Development contributions are only to be required "if developments create or cumulatively have created a requirement for the territorial authority to provide new or additional assets or assets of increased capacity". Section 200 prohibits double dipping but will clarify that councils are not prevented from requiring a development contribution when "income from rates is being used to meet a portion of the capital costs" (clause 54).

A development contribution can, in addition to building consent, resource consent and authorisation for a service connection, now also be trigged by a certificate of acceptance under the Building Act (clause 50 amends section 198). Another change is that inflation can specifically be included in some of the calculations (see clause 58 and clause 36 that amends section 106).

The development contributions policy must now include a schedule of infrastructure for which development contributions will be used. This schedule must list the asset, estimated capital cost, the proportion to be paid by development contributions and the proportion to be paid by other sources (clause 55 inserts a new section 201A).

Provisions are included that provide for a council and developer to come to an arrangement between themselves regarding the provision of infrastructure (clause 60 inserts new section 207A – F).

If a developer is unhappy with a requirement for a development contribution then they will have a right for the council to reconsider if they believe the calculation to be incorrect (clause 53 inserts a new section 199A). A council has 15 working days to decide on a reconsideration. In addition a comprehensive objections process is also provided for (new section 199C – N). The objector cannot challenge the development contributions policy but can object to its application. A decision will be made by a development contributions commissioner, a pool of whom will be appointed by the Minister, after a hearing. Council can recover its costs associated with the objection (clause 45 inserts a new section 150A). The new procedure for objections is set out in new schedule 13A in detail and is similar to a RMA council hearing.

### Infrastructure strategy
A new requirement is for an infrastructure strategy in the long-term plan that plans for at least 30 years of asset management (clause 34 inserts new section 101B). It must include the 3 waters, flood protection and footpaths / roads; other assets can be included at the council's discretion.

### Core services
Section 11A (inserted in November 2010) lists core services that includes "libraries, museums, reserves, recreational facilities, and other community infrastructure". This reference to "community infrastructure" is amended to "community facilities" to be consistent with the changes to definitions in the development contributions provisions. This means that the community "core services" are now limited to libraries, museums, reserves, recreational facilities, halls, playgrounds and public toilets. This is because of the changes to the "community" infrastructure" and "community facilities" definitions.

### Triennial agreements and delivery of services
Section 15 requires a triennial agreement between councils within a region. More detail is included as to what they must include and how they can be amended (clause 8).

After each election a council has a new requirement to review the "cost-effectiveness of current arrangements" (clause 11 inserts new section 17A). Presumably such a review has the potential to be a substantial undertaking.

### Consultation requirements and general simplification of processes
The requirement for the special consultative procedure is removed for a number of processes including: establishment of a council-controlled organisation (clause 16 amends section 56); amendment of the significance (and engagement) policy (clause 18 inserts new section 76AA(5)); review of the development contributions policy (clause 36 amends section 106(6)); reviews of rates remission and postponement (clause 37-39); and prescribing fees in a bylaw (clause 44 amends section 150(3)(b)). Section 77 is simplified for decision making to simply assess the benefits and costs of the options (clause 19).

Section 90 requires a policy on significance and this will be repealed and replaced with a new section 76AA requiring a "significance and engagement policy". This is to be adopted no later than 1 December 2014. Like the current section 90 all strategic assets have to be identified.

There are a number of other changes to this decision making part of the Act that aim make the requirements both more helpful for the public and simpler for councils. The consequences of decisions and impacts on rates are to be included in consultation documents (i.e. new section 93C(2)(b)(iii)). Schedule 10 is amended so that rating base information is included in the annual report as is the insurance of assets (new clauses 30A and 31A)

### Local boards
Provision is made for a reorganisation proposal to provide for local boards that could be delegated most (but not all) non-regulatory decision making powers of the council for its area (see clause 15 and schedule 4). A local board is able to make bylaws for its area.

### Next steps
Submissions to the select committee are due by 14th February.

Submitting on bills is the simplest way to influence legislation. We have considerable experience with drafting submissions, appearing before select committees and associated lobbying. Contact us to help you put in a convincing submission.

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