

Timaru District Council

Submission on the Local Government Act 2002 Amendment Bill (No. 2)

To the Local Government and Environment Select Committee

Introduction

1. The Timaru District Council welcomes the opportunity to make a submission on the Local Government Act 2002 Amendment Bill (No. 2).
2. This submission is made by the Timaru District Council, 2 King George Place, Timaru. The contact person is Damon Odey, Mayor of the Timaru District. I can be contacted at Timaru District Council, phone (03) 687 7200 or PO Box 522, Timaru 7940.
3. We do wish to appear before the committee to speak to our submission.
4. The Timaru District Council is a local authority in the South Island serving over 46,000 people in South Canterbury. The main settlement is Timaru, with other smaller settlements of Geraldine, Temuka and Pleasant Point. The economy of the district is strongly agriculturally based.
5. The Council is made up of a Mayor and nine Councillors serving three wards. Three Community Boards also exist in the District.

General Submission

6. The Council notes the purpose of the Bill is to implement the *'Better Local Services'* package and create new options for local government to address challenges they face around managing services, infrastructure, assets, resources, and finances. This includes enabling local collaboration, enabling locally-led reorganisations and enhancing the work of the Local Government Commission.
7. The Bill continues a long line of Local Government Act amendment bills, which have required significant efforts from the local government sector to meet central government demands. Some of these changes have been positive, some less so.
8. The Council has considered the submissions to the Bill of Local Government New Zealand (LGNZ), the Canterbury Mayoral Forum and the Society of Local Government Managers (SOLGM).

It supports the principles identified through the LGNZ submission that are critical to the effective operation of a local government system, namely:

1. Processes are transparent and open;
2. Decision making powers are adequate to enable elected representatives meet community expectations and statutory requirements;
3. Accountability is clear and unambiguous;
4. The constitutional status of local government is recognised;
5. Allocative efficiency is achieved

The Council supports the argument of the LGNZ submission that the provisions of the Bill fail to promote these principles.

The Council supports the Canterbury Mayoral Forum submission and the two recommendations contained within, namely:

1. that the Committee allocates adequate time to work through the Bill with affected stakeholders to address the issues and concerns raised in submissions.
2. that the Minister for Local Government and the Department of Internal Affairs are directed to work collaboratively with local authorities, iwi and hapū, and relevant stakeholders and organisations to ensure that resulting legislation reflects its stated principles, achieves its intended outcomes and is workable for all parties.

The Council also supports the SOLGM submission, in particular its focus on retaining local democracy.

9. The Council is concerned with the overall thrust of the Bill, particularly its significant potential for the undermining and loss of local democracy. It believes local government is best placed to serve the concerns of local residents, and that local residents are best placed to make decisions about the nature of local government they need.
10. Councils are fundamentally accountable to their communities. That is local government's benchmark. The proximity of local government to its users enables good understanding and the tailoring of services to meet local needs and preferences. Some of the provisions of the Bill will impact the ability of Councils to reflect the interests of communities and design and implement policies, plans, services and solutions that meet the preferences of local communities. This represents a backward step.
11. The Bill potentially undermines the role of elected members through a loss of accountability for the provision of core services through unelected bodies. For some Councils, these services represent a significant slice of their overall budget and operations, and the loss of these services will bring into question their very existence.
12. The proposals also potentially allow for greater fragmentation of local government into multiple separate and different agencies. This will lead to less integrated governance of core services and have resulting impacts on democracy through eroding the scope of Council decision-making and the role of elected members.
13. The Council agrees with Local Government New Zealand (LGNZ) that the Bill is 'under done' and has not been through rigorous analysis and consideration. Indeed, the Department of Internal Affairs (DIA) own Regulatory Impact Statement (RIS) on the Bill states:

*"Given the nature of the issues covered in the reform programme and significant constraints on resources and time, quantification of the size of the problems and impacts has not been feasible across all policy options."*¹

This is also reinforced by the DIA's own disclosure statement, which states the Bill 'only partially meets the [Government's set] quality assurance criteria' and notes that:

*The importance of Council willingness and capability, and public acceptability, to the successful use of greater flexibility and choice is made clear. This highlights that the lack of wider consultation with local government and information about LGNZ and the reference group leaves a significant gap."*²

The analytical constraints suggested by the DIA signal that not enough work has gone into the construction of this Bill.

14. These leads us to question what the actual problem the legislation is seeking to solve? According to the RIS, this is:

¹ Department of Internal Affairs (2016), Regulatory Impact Statement – options for improving local government services, , p.5

² Department of Internal Affairs (2016), Departmental Disclosure Statement, page 5

“The problem is that New Zealand’s local authorities need to adapt their governance arrangements and structures to lift performance and respond to emerging challenges, but the current reorganisation process and models are not flexible enough and are not advancing change at the level and pace required. Current arrangements limit councils’ ability to adequately respond to and provide for regional and sub-regional economic and population dynamics, while remaining responsive to local preferences. As a result, some services are provided sub-optimally because of lack of scale, integration, and strategic oversight across local government jurisdictions.”³

While the RIS goes on to describe this as affecting different Councils and communities in different ways, the Bill provides solutions that are less than optimal and threaten the fundamental tenet of local democracy.

The RIS goes on to describe existing foundational work underway such as the ‘first principles’ analysis of local government and other work⁴ that we would expect to be completed and inform legislative change of this nature. We question why such a fundamental reform is occurring prior to this work being completed. It appears the cart is coming before the horse.

The RIS explains one of the key drivers for the Bill is the need to respond “to the increasingly challenging demographic, technological and economic environment in which it works.”⁵ However, for something described as so critical, there is no detailed explanation of this environment and its supposed impact, but just a cursory reference in a supporting paper.⁶

The Bill seems to be founded on the premise that bigger is always better, that efficiency is always created by scale, and that local communities are unable to come up with efficient and effective local solutions.

15. Councils are regularly lambasted for poor performance on the basis of individual failures the media choose to give extensive airtime. For Timaru District Council, we recently received the results of a statistically representative residents’ survey⁷ completed by Key Research. The results of this survey for our Council were very pleasing, and hailed by Key Research as some of the highest they had seen. A selection of results is included below, being:

- 77% were satisfied with Council’s overall performance⁸
- 74% were satisfied with Council’s overall reputation
- 71% were satisfied with the value for money of Council’s services
- 82% were satisfied with Council services, facilities and infrastructure delivery

Of Council services:

- 72% were satisfied with overall roads, footpaths and cycleways
- 90% were satisfied with water supply
- 92% were satisfied with sewerage
- 92% were satisfied with overall waste management
- 92% were satisfied with overall parks, reserves, and open spaces

The survey paints the picture of a Council performing. This is not to suggest that the Council has ‘made it’ or that there does not remain room for improvement, but in our view it does question what appears one of the principle justifications for this Bill, that supposedly local government is not performing.

³ Department of Internal Affairs (2016), Regulatory Impact Statement – options for improving local government services , p.13

⁴ Department of Internal Affairs (2016), Regulatory Impact Statement – options for improving local government services, Clause 46-47, p.16

⁵ Department of Internal Affairs (2016), Regulatory Impact Statement – options for improving local government services, p.17

⁶ Department of Internal Affairs (2016) , Better Local Services Summary, p.2

⁷ Key Research (2016), Timaru District Council Annual Residents’ Survey , July 2016

⁸ This result was based on the Customer Value Management Model, which asks residents to rate their perception of council’s performance on the various elements that impact overall satisfaction. These include elements such as image, reputation, overall services and facilities and value for money.

16. Councils are working together more than ever before to seek efficient and effective approaches to providing local services and address issues. The Canterbury Mayoral Forum submission outlines in detail the collaborative work underway in Canterbury on a regional and sub-regional level across multiple activities. Many of these have emerged out of the need to efficiently respond to central government imposed demands.

Locally, in addition to the regional initiatives described above, several opportunities have been or are being explored. These include joint South Canterbury development of policies imposed by legislation, such as the Local Alcohol Policy and Food Act Fees, a roading collaboration between Timaru, Mackenzie, Waimate and Ashburton Districts that achieved significant savings, work to combine rural fire operations, joint management of the Downlands Water Supply scheme and contracted provision of Environmental Health services to Waimate and Mackenzie Districts by Timaru District Council. The Council understands the tangible and intangible benefits of working in partnership to achieve effective responses for local issues. The Bill potentially places these at risk.

17. In principle, the Council supports reorganisation that creates efficiencies and improves effectiveness. It supports for example:
- The proposed modernisation of the Local Government Commission (apart from the exceptions outlined below)
 - The potential for new reorganisations led either by the Commission or Council led
 - The use of polls to confirm community views of reorganisation proposals
 - The greater ability of the LGC to develop bespoke models of reorganisation where necessary.

However, there are numerous elements within the Bill the Council cannot support, such as:

- The extension of powers proposed for the Minister of Local Government (e.g. to direct the Local Government Commission and impose additional performance measures). The Council believes sufficient power already exists.
- The extension of powers to the Local Government Commission to remove activities from direct oversight of a local authority without the permission or against the wishes of the Council and its community.
- The ability of multiply owned and substantive Council Controlled Organisations (CCOs) to require shareholding Councils to amend a Development Contributions Policy.
- The ease of initiating a reorganisation, and the associated risk of capture by interest and lobby groups or frivolous applications, with no sensible thresholds to weed them out.
- The lack of public consultation on reorganisation plans proposed by the Local Government Commission. Any consideration of options or decisions to undertake a reorganisation investigation must involve affected local authorities and their communities, and consider public views.
- The lack of polls for some scenarios, particularly the creation of Council Controlled Organisations.
- The proposed changes to performance measurement, including the extent to which the Minister of Local Government can impose performance measures for any other Council activities that do not take account of local preferences and the agreement between the Council and its community.

18. Finally, the Council believes the development process for the Bill and the associated timeframes for response has been flawed. The Bill in its entirety has only been available to the sector since 15 June and while the Minister has advised that some pre-consultation was carried with the sector, this appears to have excluded key bodies, such as Local Government New Zealand (LGNZ) and the Society of Local Government Managers (SOLGM). The timeframe for submissions on the Bill has been very short, ostensibly to enable “the legislation to be passed by the end of the year so that the new councils elected later this year will be able to use the reform options early in their new terms.”⁹

For such potentially fundamental changes to the operation of local government in New Zealand through such a complex piece of legislation, the Council believes it deserved the opportunity for greater scrutiny and debate by Councils and the community. The haste at which the Bill appears drafted is only a recipe for ‘bad law’ that will only serve to cause more problems than solutions.

⁹ Peseta Sam Lotu-liga, 15 June 2016 “More local body collaboration for councils” press release, www.beehive.govt.nz