

18 May 2018

Secretariat
Governance and Administration Committee
Select Committee Services
Parliament Buildings
WELLINGTON 6160

Dear Governance and Administration Committee

**SUBMISSION ON THE LOCAL GOVERNMENT (COMMUNITY WELL-BEING)
AMENDMENT BILL**

1. Thank you for the opportunity to submit on the Local Government (Community Well-being) Amendment Bill. Kāpiti Coast District Council supports the Bill, while recommending a few minor amendments.
2. In addition, Council supports the submissions made by the Development Contributions Working Group (DCWG), the Society for Local Government Managers (SOLGM), and Local Government New Zealand (LGNZ).

Background

3. The Kāpiti Coast District's estimated resident population for the year ending 30 June 2017 was 52,700.¹ Statistics New Zealand classifies Kāpiti as a medium growth area. The population forecast suggests the District will grow at least 0.8% per annum over the next 25 years²; however, with the introduction of the new Roads of National Significance through Kāpiti, the District is experiencing a considerable amount of change, and there are many who argue that actual growth is likely to be higher than current forecasts predict.
4. In such a rapidly changing environment, it can be challenging to deliver cost-effective services across a wide range of communities who have, at times, very different needs. As an example, the District has a high percentage of seniors, and a low percentage of young adults. Of the 67 territorial authorities in New Zealand, Kāpiti ranks second highest in terms of having the largest proportion of residents aged 60 years and over (31.4%), and ranks the absolute lowest in terms of having the smallest proportion of residents in the 20–39 year age group (16.3%).³ For this reason, the Kāpiti District is often characterised as a retirement

¹ Statistics NZ. Subnational population estimates (TA, AU), by age and sex, at 30 June 1996, 2001, 2006–17 (2017 boundaries).

² .id, the population experts. February 2017. Kāpiti Coast District Council population and housing forecasts.

³ Statistics NZ. Subnational population estimates (TA, AU), by age and sex, at 30 June 1996, 2001, 2006–16 (2017 boundaries). Thames-Coromandel District Council has the largest proportion of residents aged 60 and over (36.2%).

community; while this is true, it is important that the Council not neglect the 15,000 residents (approx.) that are under 25 years of age.

5. At the same time, Kāpiti is simultaneously home to some of the most affluent and some of the most deprived communities in New Zealand. While communities such as Peka Peka and Kaitawa are in the 10% of most affluent communities in New Zealand, other communities such as Ōtaki and Ōtaki Beach are in the 10-20% that are most deprived. Consequently, Council must think carefully about the affordability of services and rates for all residents in the District.
6. The vision in the Kāpiti Coast District Council's draft *Long Term Plan 2018-2038* is for a Kāpiti Coast District with a thriving environment, vibrant economy and strong communities. A number of the 10-year outcomes in the draft LTP are particularly pertinent to this submission. They are:
 - a. Improved financial position against financial constraints;
 - b. Infrastructure investment that supports resilience and agreed growth projections;
 - c. A positive response to our distinct District identity;
 - d. A community that is more resilient through Council's advocacy; and
 - e. A community better supported to lead initiatives in response to agreed community priorities.
7. As the Committee can see from these outcomes, Council's focus is on improved financial management and ensuring that we are planning for growth and investing in the right things, at the right time, and in the right place, to support strong and resilient communities.

Four well-beings

8. Because Council envisions a thriving environment, vibrant economy and strong communities across Kāpiti, it supports the reinstatement of the four aspects of well-being into the Local Government Act. Council contends that local governments must be encouraged to play a broad role in promoting the four well-beings because it is, quite simply, very difficult to grow strong and resilient communities otherwise.
9. Council agrees with LGNZ who write,

democratic local governments, by their very nature, have a broad responsibility to make their jurisdictions, whether towns, cities or regions, better place[s] in which to live ... [the re-instatement of the well-beings] provides a signal to citizens and their elected members about what is expected from them – that is, to leave their communities better than when they found them.
10. Council acknowledges that some may argue against the reinstatement of the four well-beings, and the proposed repeal of Section 11A on core services, because of concerns about too many expectations being placed on territorial authorities (TAs). However, as SOLGM reminds us in their submission, '*making decisions between competing local needs is, and always has been, the central part of the role of an elected member*'.
11. Working with communities to plan and prioritise service delivery is a fundamental part of what local government do, and these practices are bolstered by the Local Government Act (LGA) and the Resource Management Act (RMA) consultation requirements. While some TAs may encounter additional demands for services

under these amendments, they would be addressed according to the well-established processes TAs already use to evaluate, plan and prioritise services.

12. It is important to note, however, that the reinstatement of the four well-beings into the LGA does not mean that these responsibilities should be vested entirely to regional and local governments. In order to build strong and resilient communities nation-wide, central government must work alongside TAs. Central government plays an important role in promoting the four well-beings by (i) continuing to improve central government services aimed at social, economic, environmental, and cultural well-beings; and (ii) supporting TAs to do the same. Examples of how central government might support TAs could include providing better data (at the TA, area unit and meshblock levels) to help TAs understand the needs of their communities, or by increasing the amounts and types of rates rebates that TAs administer on behalf of central government or offering specialised funding to assist local government carry out the design and implementation of well-being programmes.

Kāpiti Coast District Council supports all of the clauses in the Bill relating to the reinstatement of the four aspects of community well-being into the purpose of local government.

Definition of community infrastructure

13. We support the intent of the Bill to replace the definition of community infrastructure (clause 11) so that its scope broadens to include all public amenities, rather than the current limited definition.
14. When the Local Government Amendment Act 2014 narrowed the definition of community infrastructure, TAs were no longer able to collect development contributions on some projects. As an example, the Kāpiti Coast District Council found that there was \$16 million of DC funding that was no longer recoverable (Table 1).

Table 1: Community infrastructure projects no longer eligible for DCs following 2014 amendment

Component	Planned Cost to Council (\$000)	Growth Component	Development Contribution Funding (\$000)
Strategic Land Purchase (50% of future land purchases not related to Parks and Open Spaces and Roding)	21,901	50%	10,951
Performing Arts Centre	13,626	33%	4,497
Waikanae Library Upgrade	2,226	25%	557
Total Proposed Projects - Not Complete	37,753		16,004

15. This proposed amendment would allow TAs to once again collect on a broader range of community infrastructure projects. Council's draft *Long Term Plan 2018-2038* has approximately \$45m of community infrastructure planned (Table 2). With the changes proposed in this Bill, the growth portion of these expenditures could be recovered through development contributions, when Council's Development Contributions Policy is next amended.

Table 2: Community infrastructure projects where the growth element of the project could now be recovered through development contributions

	Planned Cost to Council (\$000)
Strategic Land Purchase	11,833
Kapiti College Performing Arts Centre	1,600
Performing Arts Centre	16,712
Waikanae Library Upgrade	14,760
Total planned spending in 2018-38 LTP	44,955

16. Whilst Council supports clause 11, Council would like to propose one amendment to the definition that would provide more certainty and clarity of its interpretation and administration, particularly in relation to the ownership of land on which the community infrastructure would sit. In particular, we seek that the definition be amended as follows:

Community infrastructure –

- (a) *Means land, or development assets on land, which is either:*
- i. owned or controlled by the territorial authority for the purpose of providing public amenities; ~~and~~ or*
 - ii. owned or controlled by another party and there is a legal agreement between that party and the territorial authority for the ongoing provision of public amenities on that land, or development assets on land.*
- (b) *Includes land that the territorial authority will acquire for that purpose*

17. As currently proposed, the definition would constrain the ability to require development contributions for community infrastructure to projects which are located solely on council owned or controlled land. This Council has already entered into two community infrastructure partnership projects which are on land that we neither own nor control:

- a. The new Zeal Kāpiti Youth Development Centre, provided in partnership with the Kāpiti Coast District Council, is opening in June 2018. The new centre will include an event space, band rehearsal rooms, digital design suite, creative workshop, and after-school hangout space.
- b. The Council is also co-funding the new Kāpiti Performance Arts Centre, currently under construction next to Kāpiti College. A \$5 million fit-for-purpose performing arts centre was originally planned for Kāpiti College, but after strong support from the performing arts groups within the region, a \$10 million building design was developed to reflect the needs of the wider community. Once constructed, it will be the only state of the art community facility between Wellington and Palmerston North.

18. These two community facilities provide both for Kapiti's existing, and future, community. Even though some of the expenditure to develop these facilities is growth related, the Council could not recover these costs through development contributions because neither facility is located on Council-owned or Council-controlled land.
19. Council recommends expanding the definition as we have proposed because it provides another avenue for the Council to efficiently provide for new community infrastructure that benefits multiple parties, assists to reduce duplication, reduces overall costs and provides better community outcomes. We understand that in such circumstances, a development contribution would only relate to where there is a direct link between growth and the need for the new facility. We consider that the existing provisions within the LGA are robust enough to ensure that TAs demonstrate these causal links when establishing their development contributions policies.
20. Council understands that caution would need to be exercised around the provision of community infrastructure on land that is neither owned nor controlled by a TA. For land or an asset on land to be considered as community infrastructure, we consider that it is important that it will be contractually available to the community. As such, we seek that where infrastructure would be provided on another party's land, the definition requires that there is a legal agreement in place that requires the ongoing provision of the land or asset for public amenities.

Council supports the adoption of Clause 11, subject to the following amendment:

Community infrastructure –

(a) Means land, or development assets on land, which is either:

- i. owned or controlled by the territorial authority for the purpose of providing public amenities; ~~and~~ or*
- ii. owned or controlled by another party and there is a legal agreement between that party and the territorial authority for the ongoing provision of public amenities on that land, or development assets on land.*

(b) Includes land that the territorial authority will acquire for that purpose

Repeal of Section 198A

21. Council supports the repeal of Section 198A so that reserves contributions can be taken for non-residential activities. In doing so, Council appreciates the need for TAs to demonstrate a clear causal link between non-residential activities and the demand for new, or upgrades to existing, reserves because of growth, in setting any development contribution. Council notes that we currently take financial contributions for reserves under the RMA for residential and non-residential activities. We are currently working on a transition to taking reserves under the LGA, and repealing section 198A would achieve a consistent approach.

Council supports the adoption of Clause 12, repealing Section 198A.

Amendments to Section 200

22. Council supports the amendments proposed to section 200 for the same reasons as set out in the DCWG submission. We agree that the proposed amendment would address a key concern with compliance with s200(1)(c) in respect of third party funding, as well as providing greater flexibility as NZTA priorities change.
23. Council concurs with the DCWG that, as development contributions can only be required for capital expenditure incurred by a TA (refer sections 106(2)(a) and Clause 1(1)(a) Schedule 13), it would be useful and perhaps necessary to add at the end of the proposed new ss200(6) wording that provides for the additional NZTA financial assistance to be treated as part of the total cost of capital expenditure incurred by a TA (as it relates to growth).

Council supports the adoption of Clause 13, subject to an amendment that would provide for additional NZTA financial assistance to be treated as part of the total cost of capital expenditure incurred by a territorial authority (as it relates to growth).

Other matters

24. Council supports the five other matters raised in the DCWG submission, as follows:
 - a. Removal of the Crown exemption from paying development contributions (section 8); or alternatively put, amending section 8 to include a new clause d) that binds the Crown to the payment of development contributions.
 - b. Removal of the requirement to duplicate assessment of funding sources against Section 101(3) matters.
 - c. Removal of the requirements under sections 36 and 45 of the Building Act to issue development contributions notices with project information memoranda; and in particular, to provide an actual \$ figure with that notice.
 - d. Clarification of who should receive a development contribution refund under Section 209, and what should occur if that person or entity no longer exists.
 - e. Amendment to section 202 to require development contributions on certificates of acceptance, as enabled by Section 198(4A).

Council recommends that the Committee considers amendments that would:

- a. Bind the Crown to the payment of development contributions;
- b. Remove duplication in the assessment of funding sources under Section 101(3);
- c. Remove the requirement for an actual \$ figure for a development contribution payable to be included on a project information memorandum issued under the Building Act;
- d. Clarify who of who should receive a development contribution refund under Section 209, and what should occur if that person or entity no longer exists; and
- e. Amend Section 202 to require development contributions on certificates of acceptance.

25. We thank the Committee for its time and effort in considering our submission, and we would appreciate the opportunity to speak to our submission at the hearings.

Yours sincerely

Wayne Maxwell
CHIEF EXECUTIVE