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Committee Secretariat
Governance and Administration Committee
Parliament Buildings
Wellington

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Kapiti Coast District Council submission

Thank you for the opportunity to comment on the Local Government (System Improvement) Amendment Bill. Our council welcomes a wider public conversation on the role and functions of local government to create a modernised and enduring purpose and legal framework.

Overall, whilst we support the general intention of the Bill to reduce the cost of government for residents, on consideration of the proposed changes we don't believe this is achieved. Further to this, we do not believe the Bill will significantly change what we provide our local community on the basis that we are already focused on appropriate activity (see case study provided below).

Our submission raises a small set of general concerns about the proposed changes and then makes more specific comments on key elements of the proposal.

General concerns

1. We agree there is a need to reduce local government reliance on rates and to ease the pace of rates increases. However, the Bill doesn't target the key driver of increased rates costs, which is largely related to the management of infrastructure. As you are aware, maintenance of these assets is largely rates or debt-funded, limiting Council's ability to manage for the impacts of more frequent natural disasters. Notably, the existing model incentivises 'providing affordable rates' for current residents which shifts an unfair cost-burden onto future generations.
2. We propose that a 'game changer' for addressing these issues related to costs would be a stronger focus on supporting local government to source alternate funding either through:
 - 2.1. Government subsidy (for example a GST cut, perhaps related to central government paying rates on their properties which is currently not paid).

- 2.2. Clarifying more clearly the expectation that local government partner and invest in ventures that will provide a return to its community. We propose that this requirement could be clarified in legislation in terms of core services set out.
3. Removal of the four-wellbeings does not clarify the role or purpose of local government, nor give clarity for how local government will operate more effectively or efficiently. If there is a concern about the efficacy of local government decisions, then perhaps a better mitigation step would be to independently audit long-term plans to clarify the 'bang for buck' from proposed spend. The audit carried out by the Office of the Auditor General could encompass this; and to reduce the rates burden for ratepayers, the cost of this assessment could be met by central government.
4. We welcome sensible measures to ease the regulatory burden on local government, to reduce compliance costs, and enable the effective and efficient operation of local councils. The regulatory relief measures proposed in the Bill are a good start and we would encourage the Committee to seek advice on further measures to ease pressure on councils. We note that some examples are discussed in the Regulatory Impact Statement (*Refocusing the purpose of local government*).

Kāpiti Coast District case study: *The proposals are unlikely to significantly change what we do*

As a council, we are already focused on delivering quality, resilient infrastructure and providing cost-effective public services. We also have a strong focus on local economic development and growth, as seen through our support for a new economic development model in Kāpiti and through planning for the growth of Kāpiti for the next 30+ years.

Council's view is that changes to our services and activities over the past two decades were not caused by amendments to the purpose of local government. Rather, changes to our services and activities are primarily driven by community priorities, maximising opportunities from growth, and regulatory changes.

Our view is that the Local Government Act 2002 would still be sufficiently broad to enable the full range of activities communities expect. While the four well-beings would be removed, the requirement to meet the current and future needs of communities remains. When read alongside the principles relating to local authorities (section 14), the Bill retains the mandate for councils to take a broad, sustainable development approach, balanced against concepts of prudent stewardship and sound business practice.

The Bill also retains a responsibility for councils to identify priorities and outcomes alongside communities and give effect to these. As a Council, we are already doing this through our Vision Kāpiti project which seeks to identify pathways toward the future our community want for 2060. We have already identified community aspirations and are currently developing masterplans that will enable us to translate these aspirations into concrete steps we will take to meet the current and future needs of Kāpiti residents.

As a Council, we are also taking a proactive approach to transparency about our financial and operational performance with our community. The council profiles recently published by the Department of Internal Affairs (DIA) complement our existing performance reporting framework which aims to report on outcome level measures that enable us to show the return on investment from our activities.

Our Council already has existing systems and communications protocol that support elected members to access information and ask questions of officials, and we believe that these work well.

Specific comments on key elements of the proposal

5. We have a small set of specific comments on the following matters proposed by the Bill changes:

- refocus the purpose of local government,
- prioritise core services,
- strengthen performance measurement,
- strengthen transparency and accountability
- provide regulatory relief.

6. Refocusing the purpose of local government:

6.1. **Council does not support** the proposed amendments to the purpose of local government in the Bill. To clarify:

- Shifting to a more prescriptive view of the purpose and role of local government fails to recognise the broad role that councils play in the development of communities.
- We observe that the policy process for this Bill did not allow a more enduring purpose for local government to be considered. The near continuous reforms directed at local government continue to be disruptive and generate additional work for councils, often without increased resource to carry out this work.
- We understand that further detail on the practical issues with the revised purpose will be discussed in the LGNZ submission on this Bill – we support this analysis.

6.2. If the current proposal remains unchanged, we **recommend** that the Committee seek clarification and further advice on the following:

- Defining what ‘Local public services’ encompasses.
- Defining what ‘most cost-effective for households and businesses’ encompasses.

These terms are open to interpretive differences and heighten litigation risk for councils. The concerns that these terms seek to mitigate are arguably already addressed through the principles relating to local authorities (section 14) and we have assumed the intention is to acknowledge responsibilities set by other enactments for local authorities.

6.3. Council **does not support** a narrow interpretation of local economic growth and development as only being possible through activities listed in paragraph (b). This is an unnecessary constraint, and we would request clarification and a broader framing of this provision to support efforts in unlocking growth and sustainable development.

We therefore seek clarity on whether the proposed section 10(c)¹ is intended to constrain activity related to ‘economic growth and development’ to infrastructure, regulation, and the list of core services; or whether the reference to ‘local public services’ recognises that other activity is relevant to this role (including functions or services set by other enactments).

6.4. Council **supports** the Regulatory Impact Statement (Refocusing the purpose of local government) assessment that the changes to the purpose will not support more effective spending by councils, than the current purpose in the Local Government Act.

¹ “local economic growth and development by fulfilling the purpose set out in paragraph (b)”

7. Prioritising core services:

7.1. Council **does not support** prescribing a particular set of core services in legislation. To clarify, the proposals:

- Would not require us to deliver all the services listed nor preclude us from delivering others. However, it does have the effect of sending a legislative signal that these services are more important than others. This is potentially significant if funding and financing tools set specific parameters on core services.
- Does not reflect the broad range of services councils provide and how they might shift over time in response to evolving community preference or technological change. We submit that prescribing core services does not align with the Government's focus on social investment and the role that councils can play in enabling this and supporting areas like prevention, community development and healthy lifestyles. A more flexible approach would better reflect this objective and support greater innovation in meeting the needs of local communities.

7.2. If core services are to be legislatively defined, Council would **recommend** amendment and further advice on the proposed section 11A. Further to this:

- Council **does not support** the definition of waste management used in the Bill at clause 5(4). The proposed definition is overly simplistic and does not align to definitions used in the Waste Minimisation Act 2008. Councils currently have broad responsibilities for waste management and minimisation through this Act, connected to broader environmental objectives. We **recommend** the committee seek further advice on this matter with a view to aligning the definitions between the two acts.
- Council **supports** the increased focus on Civil Defence Emergency Management. As a council, we have been investing significantly in our response and recovery capabilities. The Bill defines the activity with reference to the Civil Defence Emergency Management Act 2002 (CDEM Act). We note recent comments from Minister Simon Watts emphasising that councils have a key role to play in climate adaptation and that this work is considered a "core service". Specifically, the Minister said, "climate adaptation will be a part of delivering 'good-quality' network infrastructure and civil defence emergency management..." This is illustrative of the potential interpretive challenges that arise by attempting to be prescriptive on core services in legislation.

7.3. Council **requests** that any rates capping system should provide for the appropriate funding of local government regulatory functions, and any other services or functions set for local authorities through other enactments. The risk of taking an overly narrow view of council functions in designing this system may result in important responsibilities being missed.

8. Council performance measurement:

8.1. Council **generally supports** the steps outlined to improve performance measurement that add value to decision making and encourage performance improvement. To clarify:

- We note that further work is needed to develop a more nuanced performance and benchmarking framework. We support the intention of this to enable the public to make comparisons between councils across a variety of metrics.
- Whilst standardisation is valuable, care is needed to minimise any unintended consequences of a local authority focusing on its 'position in the league table' rather than meeting their purpose and responding to community needs.

8.2. We welcome engagement with DIA as the performance framework is developed further. We encourage further exploration of ways to increase the efficiency of meeting reporting obligations given the high reporting burden already experienced by the local government sector.

9. Strengthening transparency and accountability

9.1. Council **supports** the intent of bolstering the connection between councils and communities. While we agree that there are potential efficiency gains in some of these areas, we request clarification and/or amendment to some of the proposals as currently drafted.

Code of conduct

9.2. Council **supports** greater standardisation of the code of conduct and wishes to see provision made to enable local practices and processes. However, we also **recommend** the Committee seek further advice on a centralised disputes and complaints process to support codes of conduct to operate more effectively as a disciplinary tool. To clarify, we are concerned that:

- The current legislation places the initial responsibility to assess any complaint on the Chief Executive, requiring assessment of the behaviour of an elected member by their employee.
- We note that the Local Government Commission is working with councils, Taituarā and Local Government New Zealand (LGNZ) as it develops proposals on a Code of Conduct and understand that further detail will be provided in the Taituarā and LGNZ submissions on this Bill.

9.3. Council also **supports** the provisions to extend the application of codes of conduct to community boards.

Standing orders

9.4. Council **supports in-principle** efforts to standardise and simplify standing orders and **recommend** this allow for local arrangements to be reflected. We are aware that Government has already commissioned Standards New Zealand to begin preparing a new model of standing orders.

9.5. We **recommend** that this process occurs in collaboration with Taituarā and LGNZ, who have recently developed a new simple language standing orders document that is easy to apply and understand by elected members and members of the community. The review should also consider how specific local arrangements can be allowed for. For example, some community boards and councils will have agreed to standing orders that enable them to run meetings in line with local circumstances and preferences.

Governance principles

- 9.6. Council **supports** the intent of the two additional governance principles but has concerns with their current drafting and lack of underlying policy. Council **recommends** the Committee seek further advice on the practical implications of these principles and their interrelationship with other law affecting decision making processes, and the role and powers of mayors. To clarify:
- The additional principles potentially blur the division between governance and operations, particularly regarding freedom of expression (which is not currently restricted under the Act or any other legislation).
 - It is not clear how these principles interact with the responsibilities of mayors in section 41A of the Local Government Act 2002. Agenda setting and policy leadership are roles of the Mayor under this section, alongside their leadership of other council elected members.
- 9.7. Council notes that our staff already support elected members to develop priorities and strategic work plans. For example, we developed the Top 10 Priorities with our councillors, to explain how we would deliver on the agenda of elected members and the community throughout the current triennium. If the aim is to standardise such approaches, then we support this and would value the opportunity to share what has been implemented in Kāpiti, as a successful mechanism for achieving this intent.

Access to information

- 9.8. Council agrees that elected members need timely access to relevant information to support them to make good decisions and represent their community. However, we are not aware of any systemic issues on this matter and observe that this issue was not addressed in either of the Regulatory Impact Statements. To clarify:
- We are concerned that the access to information provisions as drafted are ambiguous and need to be considered within the context of the Local Government Official Information and Meetings Act 1987.
 - Council recommends the Committee seek further advice on this matter including potential scope of information, reasons for refusing a request, and potential consequences for misusing information.

Contractor and consultant spend

- 9.9. Council **supports** greater transparency of contractor and consultant spend. Any requirement to report on this should be supported by centrally developed guidance and common definitions to ensure the same approach is being used across the sector.
10. Providing regulatory relief:
- 10.1. Council **generally supports** the intention of providing regulatory relief to local government. Of the six measures proposed, we note **support for five** of the measures and **oppose one**. To clarify:
- Council **does not support** removing the requirement for councils to consider the relevance of tikanga Māori knowledge when appointing directors to council-controlled organisations (CCO).
 - Tikanga Māori values of seeking consensus, respect, stewardship, intergenerational equity, and relationship building are all highly relevant skills we would expect to see reflected in a CCO. We do not believe this amendment is in

keeping with the constructive steps the local government sector has been taking in recent years to grow relationships with iwi partners and strongly object to this proposal.

10.2. With regard to modernising public notice requirements, we see an opportunity to generate greater alignment and cost savings by considering other legislation with public notice requirements affecting local government (e.g. Local Government (Rating) Act 2002).

We would like to speak to our submission, if there is a chance to do so.

Yours sincerely



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Kāpiti Coast District Council



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