

Departmental Disclosure Statement

Local Government (Community Well-being) Amendment Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Department of Internal Affairs.

The Department of Internal Affairs certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

28 March 2018

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Part One: General Policy Statement

The Local Government (Community Well-being) Amendment Bill has the following 3 main objectives:

- first, it will restore the purpose of local government to be “to promote the social, economic, environmental, and cultural well-being of communities”; and
- second, it will restore territorial authorities’ power to collect development contributions for any public amenities needed as a consequence of development. This will assist in the provision of facilities such as sports grounds, swimming pools, and libraries;
- finally, the Bill will make a minor modification to the development contributions power so that it is clear that advances of financial assistance from the New Zealand Transport Agency that are recoverable do not affect the power of territorial authorities to collect development contributions for projects financed using that mechanism.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
The Productivity Commission report, Using Land for Housing (2014), considered the use of development contributions to fund community infrastructure and concluded that the use of a targeted rate to fund broader community infrastructure is more appropriate to recoup the costs of community infrastructure from the sections of the community that benefit.	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
The following Regulatory Impact Summary (RIS) was provided: “Local Government (Community Well-being) Amendment Bill”, Department of Internal Affairs, 5 March 2018. A copy of the RIS is available under the Local Government heading at: https://www.dia.govt.nz/diawebsite.nsf/wpg_URL/Resource-material-Regulatory-Impact-Statements-Index?OpenDocument	

2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?	NO
The Community Well-being RIS did not meet the threshold for the RIA Team assessment. The Department’s Regulatory Impact Analysis Quality Assurance Panel concluded that: “The information and analysis summarised in the RIA partially meets the quality assurance criteria. The reason the RIA does not fully meet the quality assurance criteria is the minimal consultation that has been undertaken on the legislative proposals. The RIA is clear, succinct and convincing. It is as complete as possible given the time constraints and specificity of Ministerial direction.”	

2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	NO
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Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
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2.5. For the policy to be given effect by this Bill, is there analysis available on:	
(a) the size of the potential costs and benefits?	YES
(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	YES
<p>Analysis of the impact of extending the range of community infrastructure that can be recovered through development contributions indicates that the potential costs will be small. No group of persons are likely to suffer a substantial unavoidable loss of income or wealth as a result of these policy changes. Extending the range of community infrastructure that can be recovered through development contributions is likely to lead to an increase in the amount of development contributions payable for any particular development. However, the extent of the increase is expected to be minimal for a unit of development in the context of overall costs of development. The impact analysis is summarised on page 14 of the Regulatory Impact Summary.</p> <p>It has not been possible to quantify the costs and benefits resulting from the other policies to be given effect by this Bill. The policies are non-financial in nature and the outcomes will depend on how each individual local authority responds to the legislative change.</p>	
2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
(a) the level of effective compliance or non-compliance with applicable obligations or standards?	NO
(b) the nature and level of regulator effort put into encouraging or securing compliance?	NO

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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The Bill amends local government legislation which has exclusively domestic application and effects. The policies given effect to by the Bill are also exclusively domestic and do not affect New Zealand's international obligations.
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Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

Specific consideration of the principles of the Treaty of Waitangi was not considered necessary because the policy given effect to by this Bill will not alter local authorities' current obligations under the Local Government Act 2002 that derive from Treaty principles. These include requirements for councils to establish processes to provide opportunities for Māori to contribute to decision-making and to foster the development of capacity for Māori to contribute to decision-making. The Bill raises no issues in relation to the Treaty of Waitangi or its principles.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	YES
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The Department of Internal Affairs understands that the Ministry of Justice provided its advice to the Attorney-General on 19 March 2018. Advice provided to the Attorney-General by the Ministry of Justice, or a section 7 report of the Attorney-General, is generally expected to be available on the Ministry of Justice's website upon introduction of the Bill. Such advice, or reports, will be accessible on the Ministry's website at:
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https://www.justice.govt.nz/justice-sector-policy/

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
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(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	NO
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(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
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Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	NO
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External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
Targeted consultation with officials from Local Government New Zealand and the Society of Local Government Managers took place during the policy development process.	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	YES
While the Bill was being prepared, a draft for consultation was circulated (in confidence) to officials from Local Government New Zealand and the Society of Local Government Managers. This was done to test and refine the potential wording and concepts in the Bill.	

Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	YES
<p>Development contributions are a form of levy or charge imposed on developments by territorial authorities in order to recover a portion of the costs those local authorities have incurred in providing infrastructure for development.</p> <p>A provision in the Bill extends the range of community infrastructure for which territorial authorities can require development contributions to be made. Development contributions can currently be recovered for a limited range of community infrastructure. The amendment in the Bill will enable territorial authorities to recover development contributions for the full range of community infrastructure, in accordance with the local authority's development contributions policy.</p> <p>Another provision clarifies that funding agreements made by territorial authorities with the New Zealand Transport Agency for advance financial assistance do not preclude the recovery of development contributions for the same project. This will remove a constraint on local authorities' ability to access the Housing Infrastructure Fund which is intended to provide additional funding for infrastructure projects to facilitate growth.</p>	

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	NO
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	NO
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Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	NO
4.8. Does this Bill create or amend any other powers to make delegated legislation?	NO

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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