

Submission to the Local Government and Environment Select Committee

CANTERBURY
Mayoral Forum

A strong regional economy with resilient, connected communities and a better quality of life, for all.

Local Government Act 2002 Amendment Bill (2)

28 July 2016

1. The Canterbury Mayoral Forum (the Forum) is pleased to have this opportunity to offer comment on the Local Government Act 2002 Amendment Bill No. 2 (the Bill).
2. The Forum wishes to be heard in support of our submission.

Context

3. The Canterbury Mayoral Forum comprises the Mayors of the ten territorial local authorities in Canterbury and the Chair of Environment Canterbury, supported by our Chief Executives. The purpose of the Forum is to promote collaboration across the region and to increase the effectiveness of local government in meeting the needs of Canterbury's communities.
4. All Canterbury councils actively participate in the Forum: Kaikōura District Council, Hurunui District Council, Waimakariri District Council, Christchurch City Council, Selwyn District Council, Ashburton District Council, Mackenzie District Council, Timaru District Council, Waimate District Council, Waitaki District Council and Environment Canterbury.
5. The Forum work programme is implemented by the Canterbury Chief Executives Forum and the Canterbury Policy Forum. For matters that impinge on planning, the Policy Forum is supported by the Canterbury Planning Managers Group.
6. The following submission has been developed by members of the Canterbury Policy Forum, and approved by the Canterbury Mayoral Forum. There are a range of views across our member councils, and individual Canterbury councils have separately provided their own submissions on the Bill. This submission is not intended to replace or detract from any of those. However, this submission has the support of all Canterbury councils.

General Comments

7. The Forum supports those proposals within the Bill which would allow more flexibility for local authorities to work together. However, Canterbury councils have serious concerns and are unable to support provisions in the Bill which would undermine local democracy and local governments' 'contracts' with their communities.

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8. We support the following proposals in the Bill, as they reflect activity that is already being undertaken or explored here in Canterbury:
- the ability for a broader range of functions to be transferred between local authorities
 - joint governance arrangements, and
 - greater use of joint council controlled organisations (CCOs) for providing services.
9. Our view is that these aspects of the Bill reflect existing practices with respect to local authorities working together for the benefit of their communities. Considering the successful and effective collaboration and shared services arrangements currently taking place in Canterbury and throughout New Zealand, we question the need for this legislation as an enabler of local governments working together. Rather, it appears to add unnecessary complexity to existing legislative and non-statutory arrangements which may not appropriately provide for the needs and characteristics of localities and communities.
10. The Bill does not appear to be based on any recognition of existing successful and effective collaborations and infers that there are either few, or ineffective, joint arrangements currently operating between local authorities. In our view, this assumption is incorrect.
11. The Bill is complex and appears to disguise an intention to give central government more control over local arrangements. The themes in the Bill are contradictory – the principle of collaborative involvement between local councils (which we welcome), conflicts with proposed measures that would extend central government power to reorganise (which we cannot support). There are provisions in the Bill which are of serious concern and would create major challenges in implementation, and would be unlikely to add any value to current legislation.
12. Furthermore, the proposed measures to move decision making power from local governments and their communities to central government, violate the principle of subsidiarity. Subsidiarity is the principle that decisions, policies and management of service delivery should be undertaken by the least centralised level of government. There is an extensive range of international law and political theory supporting the principle that local decisions are best made by local representatives for local needs and communities.
13. Canterbury councils cannot support proposals which would erode and undermine local democratic processes including:
- the increased powers of the Local Government Commission (LGC) to decide to undertake a reorganisation investigation
 - the removal of the requirement for community support for reorganisation
 - the diminished ability for local authorities to provide for the circumstances and priorities of their communities
 - inability for councils to require a multiply-owned CCO to comply with plans and policies for the local community
 - the Minister's ability to set performance measures
 - the Minister's powers to direct the activities and priorities of the LGC.

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Existing joint arrangements in Canterbury

14. Canterbury is emerging as a force for cohesive and collaborative leadership, engaged in planning to ensure the whole region achieves the best possible results. This has occurred through the Mayors and Chief Executives of the 11 local authorities in Canterbury speaking with one strong voice, supported by the Canterbury Policy Managers Group and Planning Managers Forum.
15. Canterbury councils have a history of working together voluntarily on major collaborative activities, including the Canterbury Regional Economic Development Strategy (CREDS) and the Canterbury Water Management Strategy (CWMS), with at least 15 additional joint arrangements across all 11 Councils, with a further six sub-regional initiatives (listed in Appendix A).
16. The Canterbury Mayoral Forum clearly defined its work in the CREDS, with a detailed action plan of seven interdependent work programmes, each with a lead Mayor, to achieve its overarching vision:

A region making the most of its natural advantages to build a strong, innovative economy with resilient, connected communities and a better quality of life for all.
17. Some significant gains for the region have been achieved through these work programmes, and Canterbury councils are actively pursuing further opportunities for efficiencies. Two significant examples which are reflective of focus areas in the Bill, have recently commenced among Canterbury councils, led by Christchurch City Council.
 - assessing merits and resource implications of integrating water and wastewater delivery, and stormwater,
 - assessing merits and resource implications of integrating roading and/or transport delivery.
18. The CWMS is another example of strong regional collaboration, with its vision:

To gain the greatest cultural, economic, environmental, recreational and social benefits from our water resources within a sustainable framework both now and for future generations.
19. The CWMS is a collaborative framework for all fresh water related activity in our region, with extensive community engagement and close involvement of Ngāi Tahu rūnanga. The work of setting goals and priorities has been undertaken by community-based Zone Committees, which are joint committees of Environment Canterbury and the relevant territorial local authorities (TLAs) under the LGA. This ensures a strong foundation for CWMS activities in the expertise, local knowledge, and planning and management work of our member councils. There is also a Regional Committee that considers regional issues of environmental restoration and repair, land use impacts on water quality, and water storage, distribution and efficiency options.
20. There are numerous other collaborative achievements where Canterbury councils have operated in partnership. Planning staff from Environment Canterbury have been 'loaned' to TAs, which strengthens the capability of all staff through sharing expertise, understanding different perspectives, and involvement in District Plans. Collaborative cross region activities include co-ordinated submissions where the aim is to have one strong Canterbury voice, most recently to your Committee on the Resource Legislation Amendment Bill, and the Ministry for the Environment consultation on Fresh Water

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Management and the 'Next Steps Discussion Document'. This submission is a collaborative effort of Forum members.

21. Plans are in place for further investigation and implementation of regional joint arrangements over the next three years including integration of engineering services and common standards; further development of GIS/Canterbury Maps; rating and valuation services; health and safety collaboration; building control and regulatory co-ordination; and benchmarking and performance improvement.
22. In summary, Canterbury councils have long understood the practical and financial benefits of working collaboratively. We particularly value the cost savings and enhancement of capabilities through sharing expertise that we are achieving by working together. Intangible benefits are immense and immeasurable, including the sharing of information, shared understanding of the challenges and issues facing our colleagues across urban and rural councils, and the strength of a combined regional voice.
23. Most of this activity is achieved without the need for centrally imposed formal legislative structures. These initiatives are simply based on the principle of good neighbourliness, practicality and efficiency as we work together with our local government colleagues across the region and beyond to address the common challenges we all face in our communities. Canterbury councils are therefore unable to support legislation that would potentially jeopardise our ability to work together in this way.

Specific Points of Submission

LGC role in reorganisations

24. Mayors of Canterbury support in principle reorganisation that creates efficiencies and improves effectiveness. However, 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 a requirement for a poll to test community acceptance of LGC reorganisation proposals to establish a CCO is of major concern.
25. We have serious concerns about the proposed role of the Local Government Commission (LGC). The provisions in the Bill would be very enabling for the LGC and we cannot support those provisions that would allow for reorganisations to be initiated by LGC without consultation. The ability for the LGC to propose and establish a CCO, with no requirement for a poll is a concern. These provisions would remove the right to a democratic process and Canterbury councils cannot support the erosion of local democracy.
26. The proposed legislation, which would exclude communities from the reorganisation process, would also remove the ability for other government and non-government shareholders and partners (for example Te Rūnanga o Ngāi Tahu and CDHB), to engage in public consultation and voice their concerns about decisions that affect their communities.

Performance measures

27. The proposed power of the Minister to set performance measures for councils' activities is also of serious concern. Performance measures imposed by central government to date have been ineffective and costly - for example, the National Monitoring System for Councils' performance of functions under the RMA which has

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imposed significant burdens on all New Zealand councils with no meaningful outcomes yet evident. A one size fits all approach is not workable, and Canterbury councils need systems that will respect and provide for the diversity of the region. Central government imposition of measures would erode the distinction between local and central government, would interfere with councils' long term planning, and would undermine the contract between local councils and their communities.

Accountabilities of CCOs

28. There are multiple 'unknowns' regarding the operation of CCOs in the proposed legislation and this lack of clarity makes it impossible for us to support these provisions in the Bill.
29. For example, the Bill neglects to address how individual councils who are shareholders in substantive or multiply-owned CCOs are able to ensure that those CCOs deliver services that meet local policies and priorities.
30. There are some provisions in the Bill which may not lead to efficiencies if implemented as currently described. For example in practice, councils will be unable to sign off levels of service and CCO budgets through their Long Term Plan process, as agreement is required by all shareholding councils. There appear to be no provisions for weighting of different councils, and the purpose of the LTP would be undermined.
31. It appears that substantive and multiply-owned CCOs are outside the scope of council services reviews (section 17A). Therefore under this proposed legislation, it is unclear how a multiply-owned CCO could be disestablished should it be found to be inefficient.
32. If substantive work (transport and water) are given to CCOs as proposed in this Bill, councils would become removed from decision making. This could potentially compromise councils' ability to develop plans and influence growth and economic development in their communities. The role of local government would become less relevant, and councils' primary purposes under the LGA – to support and provide for the needs of their communities – would be constrained.

Process for development of the Bill

33. Canterbury councils note that the Bill has been developed with little engagement with the local government sector. This lack of consultation is noted in the Regulatory Impact Statement and Departmental Disclosure Statement as a 'significant' procedural flaw.¹
34. Canterbury councils also note with concern the ambitious timeline proposed for the progress of the Bill through the House to its introduction. We consider that any proposed legislative change, particularly change with such far-reaching implications as this Bill, must be developed in collaboration with those most affected.

The Canterbury Mayoral Forum recommends:

- 1. that the Committee allocates adequate time to work through the Bill with affected stakeholders to address the issues and concerns raised in submissions.**

¹Department of Internal Affairs, Regulatory Impact Statement, pp 5 and 32; Departmental Disclosure Statement , p 5..

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- 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.**

Conclusion

35. The Canterbury Mayoral Forum appreciates the opportunity to provide comment on the proposed changes to the LGA. The Forum considers that there are some measures in the Bill that might support local councils to work more collaboratively. However, we note the extent and success of collaboration currently in place among Canterbury councils without the need for new legislation. We have serious concerns with those measures in the Bill which would undermine local democracy, and given these concerns, strongly suggest that a collaborative review and revision of the Bill with stakeholders would be more likely to achieve the intentions of the legislation.
36. The Canterbury Mayoral Forum wishes to be heard in support of this submission.

Dame Margaret Bazley ONZ DNZM Hon DLit

Chair

Canterbury Mayoral Forum

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APPENDIX A**Joint Arrangements and Sub-Regional Initiatives in Canterbury (2013 - 2016):
Operating in partnership across the Region****Co-ordinated submissions**

When new national policy statements and national environmental standards were announced, the aim was to have one strong 'Canterbury' voice.

Submissions were made on:

- 2014 Local Government Amendment Act 2002
- Proposed changes to the National Policy Statement on Fresh Water Management
- Resource Legislation Amendment Bill
- The National Policy Statement on Urban Development

Forum partners are now working through the consultation documents on the proposed changes to the Local Government Act 2002 Amendment Bill (No 2). The partners are also working jointly on Next Steps for Fresh Water, the NES for Plantation Forestry, NESs for Contaminants in Soil and Air Quality and the NPS for Aquaculture.

Storm water management

In April 2014 a mandate was agreed to organise storm water management region-wide and to oversee technical working groups. Work continues towards achieving region-wide consistency on storm water management.

Population project

A region-wide demographic analysis was completed in association with Statistics NZ and MSD, and a web presence created, on population and migration dynamics (inter and intra-regional) and used to inform infrastructure strategies and Long Term Plans.

Consistency on asset management

2014 saw the establishment of a sub-group to develop consistency around asset management, infrastructure strategies and 2015-2025 LTPs. There is strong support for consistent systems among the region's councils and potential for a centralised database and opportunities to share information and knowledge.

Common approach to Significance and Engagement Policies

All participating councils agreed in April 2014 on the worth of a common approach to Significance and Engagement Policies. The draft policies were created following a number of workshops that saw the office of the Auditor General attend and provide advice following the 2014 LGA amendments.

Long-term regional indicators

Agreement was reached to create set of long-term regional indicators in association with Statistics NZ and MBIE, which resulted in a set of regional indicators being reported by the Canterbury Development Corporation.

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Managing natural hazard risk

The partners agreed to develop a regional approach to managing natural hazard risk in Canterbury, working with the TLA planners and emergency management officers' forum. The final report was presented in May 2016 and also looked at the monitoring of natural hazards and management reform, (including climate change impacts, mitigation and adaptation) and possible emergence of an NPS.

Collaboration with Heritage NZ

The region collaborated with a view to promoting the Heritage NZ Act and the availability of advice. It made a joint submission to the Heritage New Zealand Pouhere Taonga on its draft Statutory Policies. Together with Heritage NZ developed a symposium in October 2015.

Freedom camping

In order to develop a region wide consistent approach and to identify common issues, the Forum established a working group and is developing an action plan.

Rural fire district proposals

This work is not now required given the Government's introduction of the Fire and Emergency New Zealand Bill, which combines urban and rural fire services."

Contaminated land trial

From January 2015-January 2016 a trial was held on contaminated land technical support to councils to ensure information was consistent across the region. This was extended for a further year.

Hotel development register

The development of a hotel development site information register in association with CREDS visitor strategy work stream, is currently being undertaken.

Rating and valuation services review

Ernst Young (EY) was engaged by the Canterbury Councils to evaluate opportunities for the Canterbury Councils to work more collaboratively on rating and valuation processes. A project working party has been formed to work with EY through a three-phase project process.

Joint waste initiatives and shared landfill

The region collaborates through the Canterbury Waste Joint Committee, set up to identify and promote solid and hazardous waste minimisation. Recent projects funded by the committee include the Love Food Hate Waste campaign and rural waste minimisation. The Kate Valley Landfill, in Hurunui, is a joint venture by a number of the Canterbury Councils and Canterbury Waste Services. The landfill is built to international best practice standards and will provide landfilling space for years to come.

Civil defence including lifelines

A regional emergency fuel supply plan has been developed. Work has begun alongside the University of Canterbury to enhance connectivity of lifeline utility organisations to improve critical infrastructure resilience. Work has also commenced on an initiative to provide a pool of trained Emergency Management Officers to provide additional support for any district Emergency Operations Centre facing a crisis event. Emergency management training along with exercises to enhance and refine skills has been undertaken. Regional priorities for commissioning natural hazard research projects have been agreed.

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Sub-regional initiatives

- Greater Christchurch Urban Development Strategy
- MOUs on roading collaboration in north and south Canterbury
- Share IT infrastructure support for Kaikōura and Mackenzie
- Shared code of engineering practice
- Contaminated land in Greater Christchurch
- Virtual health and safety team

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