

## Appendix A: WCC's position on Local Government Act 2002 Amendment Bill

Theme	Council Position	Commentary
<b>Community Outcomes:</b> <ul style="list-style-type: none"> <li>refining the definition of 'community outcomes' to focus on those where councils have a direct role in their achievement (clause 4(1));</li> <li>removing the prescriptive community outcomes process (clause 12 and new Schedule 10(1)); and</li> <li>removing the obligation to report against community outcomes (clause 12).</li> </ul>	Support  ✓	<p>WCC supports this measure on the basis that:</p> <ul style="list-style-type: none"> <li>WCC will be able to continue to work with other agencies and groups to identify community outcomes, taking into consideration the social, economic, cultural and environmental well being of its communities</li> <li>It allows WCC to focus on what the <u>council</u> will deliver, which we believe will serve to clarify issues of accountability.</li> </ul>
<b>Core Services:</b> <ul style="list-style-type: none"> <li>In performing its role, a local authority must have particular regard to the contribution that the following core services make to its communities: <ul style="list-style-type: none"> <li>(a) network infrastructure;</li> <li>(b) public transport services;</li> <li>(c) solid waste collection and disposal;</li> <li>(d) the avoidance or mitigation of natural hazards;</li> <li>(e) libraries, museums, reserves, recreational facilities, and other community infrastructure.</li> </ul> </li> </ul> <p>(clause 5)</p>	Support  ✓	<p>The role of local government has changed and evolved dramatically over time, and will continue to do so, reflecting the different needs of the communities each council serves. Less than 100 years ago WCC delivered milk and owned an abattoir; 15 years ago we began investing in tourism and event management. The services we deliver at the end of the 21<sup>st</sup> century are likely to look vastly different again. The Bill is an opportunity to future proof the Act to ensure that councils can continue to evolve in response to ever changing communities with different sets of needs. Thus, while we understand that Parliament may wish to define what services local government delivers, we believe strongly that it is councils, informed by the needs of their communities and physical environments, who are best placed to decide which activities they should be involved in.</p> <p>We also note that there are a number of events and other activities where the government has looked to local government to partner with in order to achieve success. A prime example is the Rugby World Cup 2011 where the government is reliant on councils playing a major role to ensure that the event runs exceptionally well in the large number of regions where the Rugby World Cup is being held. While this is a 'one-off' event, other opportunities for world class events will arise that will also require a strong partnership between central and local government. We note that this type of activity is not explicitly catered for in the definition of core services.</p> <p>In our view the clause is intended to ensure that councils have duly considered how the listed services contribute to the well-being of their communities. WCC considers that it will be able to demonstrate that the council has had particular regard to the contribution that the specified core services have made to our community. WCC supports this clause in its current form.</p>
<b>Community views in relation to decisions:</b> <ul style="list-style-type: none"> <li>removing the obligation to consider whether to seek community views at each stage of the decision-making process (clause 8).</li> </ul>	Oppose  ✗	WCC opposes clause 8 but notes that we seek to avoid repetitive consultation where there are different requirements of different legislation.
	Recommendation	WCC recommends that the Select Committee: Reinstate section 78(2) and amend to reflect our comments.
<b>Use of special consultative procedure in relation to change of mode of delivery of significant activity:</b> <ul style="list-style-type: none"> <li>removing the requirement to consult when changing the mode of delivery of significant activities (clause 11).</li> </ul>	Oppose  ✗	<b>WCC opposes clause 11.</b>
	Recommendation	WCC recommends that the Select Committee: Reinstate section 88.
<b>Certain decisions to be taken only if provided for in LTCCP:</b> <ul style="list-style-type: none"> <li>removing the requirement that decisions to construct, replace, or abandon strategic assets can only be taken if provided for in a long-term plan (clause 14).</li> </ul>	Support  ✓	WCC notes that the Bill aims to simplify decision-making processes by removing some of the provision for decisions in the LTCCP.



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<p><b>Long-term plan auditing:</b></p> <ul style="list-style-type: none"> <li>removing the requirement to audit the appropriateness of performance measures in the long-term plan (clause 9 and 13).</li> </ul>	<p>Oppose</p> <p style="text-align: center;">✘</p>	<p>The proposed change seems inconsistent with the move towards greater focus on the performance measures and their relevance and accuracy. The performance measures will continue to be audited as part of the annual report and starting this year the Office of the Auditor General, as part of their recent AG4 initiative, will require the audit of the controls surrounding the performance measure information as part of the annual report audit.</p> <p>Having an assessment of the performance measures at the end of the process is of limited value. WCC recommends that the full audit of performance frameworks and systems occurs as part of the long term plan process. This will provide an assurance to the public of the process and means the annual report audit can be an attest based audit thus freeing up resources as the detailed audit occurs on a three yearly cycle.</p> <p>The proposed rules for performance standards set by the Secretary of Local Government may also go some way to limiting the requirement to audit the appropriateness of set performance measures, however there are still a considerable number that will require auditing.</p>
	<p>Recommendation</p>	<p>WCC recommends that the Select Committee:</p> <ul style="list-style-type: none"> <li>Reinstate section 84(4)(c)</li> </ul>
<p><b>Financial Reporting:</b></p> <ul style="list-style-type: none"> <li>introduce requirement to report on previous year's financial forecasts in annual plan, long-term plan and annual report (Schedule 10 clause 14);</li> <li>introduce requirement to prepare a Funding Impact Statement by group of activities and introduce the requirement to report the funding impact statement in a prescribed form (clause 38 and schedule 10 (5));</li> <li>introduce the requirement to include a Funding Impact Statement in the annual report (schedule 10(27)).</li> <li>clarify that the Funding Impact Statement is not required to be reported in accordance with generally accepted accounting practice (clause 27); and</li> <li>introduce requirement to include a summary of each of the Council's reserve funds and any movements in those funds (schedule 10 (17))</li> </ul>	<p>Support (with changes)</p> <p style="text-align: center;">✔</p>	<p>WCC supports the introduction of the comparative financial information and the introduction of the Funding Impact Statement at the group of activity level in the long-term plan. WCC is however concerned about what the "prescribed form" for a Funding Impact Statement will look like and welcomes the opportunity to be actively involved in the drafting of the requirements to help ensure that the greater detail in the specification will lead to more useful information for users of the funding statements. WCC also supports the introduction of the Funding Impact Statement for the annual report.</p> <p>The new requirement to report on the rationale for funding sources in the Funding Impact Statement creates unnecessary duplication as this information is already contained in the Revenue and Financing Policy. WCC recommends this information is reported only in the Revenue and Financing Policy where the sources of funding are discussed in more detail.</p> <p>WCC notes the requirement to disclose reserve funds. The definition of "reserve fund" in clause 4 is circular and somewhat ambiguous and WCC recommends the definition is refined to capture that reserve funds would be restricted to specific reserves that are set up within equity in the Statement of Financial Position.</p> <p>WCC supports Schedule 10 Part 1 (3) in that it allows councils the flexibility to create other groups of activities.</p>
	<p>Recommendations</p>	<p>WCC recommends that the Select Committee:</p> <ul style="list-style-type: none"> <li>move Schedule 10 clauses 16(3), 16(4) and 16(5) to the Revenue and Financing Policy requirements (section 103) as well as the rationale in 16(2)(a).</li> <li>clarify the definition of "reserve fund" in clause 4 to reflect that that reserve funds would be restricted to specific reserves that are set up within equity in the Statement of Financial Position.</li> </ul>

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<p><b>Funding &amp; Financial Policies:</b></p> <ul style="list-style-type: none"> <li>• maintain the requirement to adopt a policy but remove the obligation to include the following policies in the long-term plan and instead introduce a mandatory review period (clause 18,22 and 24-26): <ul style="list-style-type: none"> <li>○ a liability management policy</li> <li>○ an investment policy</li> <li>○ a policy on development contributions or financial contributions</li> <li>○ a policy on remission and postponement of rates on Māori freehold land</li> <li>○ a rates remission policy</li> <li>○ a rates postponement policy.</li> </ul> </li> <li>• remove requirement to adopt a policy on public private partnerships (clause 23); and</li> <li>• maintain the requirement to adopt a revenue and financing policy and include it in the long-term plan as well as introduce a requirement that only significant amendments be audited (clause 19).</li> </ul>	<p>Support</p> <p style="text-align: center;">✓</p>	<p>We support the removal of the requirement to include these financial and funding policies in the long-term plan and agree that the revenue and financing policy should remain in the long-term plan. The policies required in the proposed Bill are still however key operational policies for WCC and we support the requirement to maintain them and review them in accordance with the proposed timeline.</p> <p>The removal of the requirement to adopt a policy on partnerships between the local authority and the private sector is also supported as it was not seen to contribute to better decision making in this area. WCC also notes that any specific policies related to Māori freehold land are already incorporated as part of the general rates remission policy and so the removal of the specific policy will not impact on the Council.</p> <p>WCC notes that the required three-yearly review of the development contributions policy would happen simultaneously with the long-term plan given its potential impact on allocation of costs. We welcome the administrative efficiency from being able to update the policy without triggering a long-term plan amendment.</p>
<p><b>Financial Strategy and Investment principle:</b></p> <ul style="list-style-type: none"> <li>• introduces the requirement to include a financial strategy in the long-term plan which will be required to include a discussion of factors which are expected to have a significant impact on the local authority (clause 17);</li> <li>• adds the requirement to undertake a periodic review of investments to the principles relating to local authorities (clause 6).</li> </ul>	<p>Support (with changes)</p> <p style="text-align: center;">✓</p>	<p>WCC broadly supports the requirement to include an overall Financial Strategy – it makes explicit the prudent manner in which councils align affordability considerations with delivering quality services, and facilitates the removal of many policies that contributed to cumbersome long-term plans. This will become the key strategy for local communities to understand how WCC demonstrates prudent financial management. WCC already reports on the requirements in the strategy through a number of the policies so we see this strategy incorporating key information included in the current financial and funding policies.</p> <p>Because this is an overarching strategy document rather than a policy, WCC recommends that the requirement to include capital expenditure information on infrastructure (101A (3)(a)(ii)) be removed as the requirement to disclose capital expenditure required to replace existing assets (existing levels of service) is already included within the requirements of the new Schedule 10 clause (3).</p> <p>WCC supports the intent of clause 6 which requires councils to undertake a periodic review of its investments. However, the requirement to undertake a review is not a principle and WCC recommends that clause 6 be deleted because there are other principles - such as section 14(1)(f) and (1)(g) - on which to hang the new section 101A(3)(d) requirement to report on return on investment. If the select committee is of a mind to retain an investment-related principle, WCC believes the focus should be ensuring the returns are commensurate with risk (rather than outweighing risk as the clause is currently worded) and focused on benefits (both financial and non-financial) rather than simply returns.</p> <p>With regard to 101A(3)(a), we note that one of the other important factors that could have a significant impact on local authorities is the impact of central government's (and its agencies) funding and service provision decisions on local government's finances and any affordability issues it raises, for example in relation to Roads of National Significance, and the gradual withdrawal by the education sector of providing swimming pools.</p> <p>WCC also notes that the Act already provides for a transparent review process for proposed rates changes, therefore we do not believe that the proposed requirement to include a statement about this is necessary.</p>
	<p>Recommendations</p>	<p>WCC recommends that the Select Committee:</p> <ul style="list-style-type: none"> <li>• Add a clause at 101A (3)(a) noting the significant impact of other agencies' decisions on local government's finances</li> <li>• Remove 101A (3)(a)(ii)</li> <li>• Remove 101A (3)(b)(i)</li> <li>• Remove clause 6</li> </ul>

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<p><b>Pre-election Report:</b></p> <ul style="list-style-type: none"> <li>• Pre-election Report (PER) of almost exclusively financial information to encourage and inform election debate;</li> <li>• Prepared by a chief executive to be available two weeks before nomination day for triennial elections. (clause 16 and new Part 4 of Schedule 10).</li> </ul>	<p>Oppose</p> <p style="text-align: center;">✘</p>	<p>Communication with local communities is an ongoing challenge for local government particularly given the limited analysis local government business receives from television news and current affairs. As such, many councils have well-developed and effective communication practices, which when coupled with a relatively high degree of local media coverage, means that local communities have many avenues to be informed about local government. WCC acknowledges that there are declining levels of participation in local elections however we believe there are far better solutions than the proposed PER to encourage greater and more informed participation in local elections.</p> <p>In particular, the PER is required to report on financial information that is neither engaging nor adding any value, as all the information, except for the current year actual results, is already publicly available. Further, the information required in the PER does not include any of the performance reporting information that is crucial to an understanding of the Council's plans and results. Information on performance is essential for communities to understand the extent to which they are getting value for money from their council.</p> <p>Much of the information to be reported in the proposed PER is already included in Council's asset management plans (AMPs). Effective asset management planning is a rigorous process that includes service level planning, financial forecasts, risk management and identification, and the development of good quality data. AMPs allow for ongoing performance management and integrated planning across the organisation and should form the basis of any new information to be reported. Information should be reported consistent with Generally Accepted Accounting Principles (GAAP).</p> <p>WCC is also concerned that there is insufficient emphasis on future strategic issues. While identifying the major projects planned for the 3 financial years immediately following the date of the election may be a useful start, some of the key governance issues facing a local community may not be project related. Finally WCC notes the clash in work commitments with end of year financial reporting and preparing a PER at the same time.</p> <p>WCC suggests that, rather than the proposed PER, the Bill is amended to require that annual reports - which will include all the information not already available to the public - be audited and published by 31 August in a local body election year.</p> <p>Recommendations:</p> <p>WCC recommends that the Select Committee:</p> <ul style="list-style-type: none"> <li>• delete clause 16 and new Part 4 of Schedule 10</li> <li>• Add a requirement that annual reports be audited and published by 31 August in a local body election year.</li> </ul>
<p><b>Water Services</b></p> <ul style="list-style-type: none"> <li>• Allows a council to enter into contracts for any aspect of the operation of all or part of a water service for a term not longer than 35 years. If a council enters into such a contract it must: <ul style="list-style-type: none"> <li>• continue to be responsible for providing the water services; and</li> <li>• retain control over the pricing of water services and the development of policy related to the delivery of water services. (clause 31)</li> </ul> </li> </ul>	<p>Oppose in part</p> <p style="text-align: center;">✔ ✘</p>	<p>WCC notes that this clause retains the requirement in the Act for councils to continue to be responsible for providing water services; control over the pricing; and policy development (alongside the current controls in the Act which prohibit sale or other disposal of water assets). On this basis WCC supports the removal of the requirement for councils to retain control over the management of water services, noting the flexibility this provides councils that wish to make use of this provision and the cost efficiencies that can result from the ability to extend contracts up to 35 years. However we consider that it is unlikely that there will be merit in long term contracts for water management, and have noted the concerns of members of our communities about de facto privatisation of water, therefore we do not support the 35 year term applying to drinking water and storm water. WCC currently has a contract with Clearwater Services which exceeds 15 years. The contract is dedicated to the management of the assets at our two sewage treatment plants. The council's and communities' interests are safeguarded through the provisions of the contract with United Water International and, given this positive experience and that wastewater treatment plants are very large lumpy investments requiring significant experience to construct and operate, WCC supports the 35 year proposal for wastewater.</p> <p>Recommendation:</p> <p>WCC recommends that the Select Committee:</p> <ul style="list-style-type: none"> <li>• amends clause 31 to reflect that the extension of the term to 35 years apply only to wastewater.</li> </ul>



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<p><b>Rules for performance measurement:</b></p> <ul style="list-style-type: none"> <li>Secretary of Local Government is able to make rules specifying performance measures for prescribed list of groups of foundation service-related activities; (clause 41)</li> <li>Rules to be funded by way of a levy on local authorities; (clause 39)</li> <li>Performance measurement rules are connected to the statement of service provision (new Schedule 10(4)).</li> </ul>	<p>Support (with clarification)</p> <p style="text-align: center;">✓</p>	<p>The making of rules specifying performance measures is a new move for the local government sector. Performance management rules are connected to the statement of service provision which suggests the purpose of the rules is to ensure councils place sufficient attention in the right areas for the delivery of these services. The groups of activities subject to these provisions are well-suited for developing standardised performance measures. While we note the Minister's interest in benchmarking to make inter-council comparisons easier, we understand this is not the focus of the rules. On this basis, WCC supports the government's objectives in establishing performance measures for the listed groups of activities coupled with the ability for councils to set their own targets against a set of standard measures, and we are very keen to be involved in the development of the rules. It is important to get it right and we believe we have expertise that can add considerable value to the process.</p> <p><i>Stormwater and flood protection groups:</i></p> <p>WCC combines the management of the stormwater network with flood protection activities because there is strong connection between the two activities in achieving their respective levels of service. We recommend that these two aspects are contained within one group of activities for rules.</p> <p><i>Provision of roads group:</i></p> <p>Unlike the other groups of activities, the provision of roads relates to asset provision not service delivery. To be able to develop performance measures for roads that would be able to meet the requirements in the statement of service provision, the provision of roads would need to be recast as the transportation network. However, setting performance measures of the transportation network in a manner that captures the causal link with a council's activities is fraught. For example, if "the average time travelled" was established as a standard measure, is it the network management, the road quality, or demand management (public transport, walking and cycling, economic instrument like a congestion charge) that would reduce travel times? WCC therefore recommends deleting the provision of roads or any wider transport related grouping altogether because achieving an aggregate service level relies on too many variables.</p> <p><i>Consultation and setting the levy:</i></p> <p>Bill specifies consultation with LGNZ for setting the rules levy – WCC believes it is better to keep consultation open to the sector rather than specifying LGNZ. We would be willing and able to formally partner with, or assist the Secretary for Local Government, in developing the rules and provide a metro sector view in our capacity as Chair of the Metro Sector Chief Executive's Group. We also note that the Auckland Council will only just have been established following the enactment of the Bill, and is unlikely to have sufficient capacity to be actively involved.</p> <p>WCC also suggests that consideration be given to the cost of performance measures being borne out through general taxation, rather than a levy on local authorities, because all New Zealanders benefit from the efficient management of this foundation infrastructure. This would avoid the issue of imposing additional costs on councils and differential charging rates given that one of the underlying aims of the Bill is to reduce costs to ratepayers.</p>
	<p>Recommendations</p>	<p>WCC recommends that the Select Committee:</p> <ul style="list-style-type: none"> <li>combine clauses 261A(c) and (d) into a single "stormwater and flood protection" group of activities;</li> <li>amend Schedule 10 clause 2(2) to match Recommendation clause 261A grouping;</li> <li>delete clause 261A(e) and Schedule 10 clause 2(2)(e).</li> </ul>

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<b>Community board funding:</b> <ul style="list-style-type: none"> <li>removing the prohibition on using a targeted rate to fund community board activities (clause 45).</li> </ul>	Support (in part) 	WCC agrees with the proposal although we note that if the objective is to remove ambiguity it may be useful to explicitly state that a council may use a targeted rate to fund a community board's activities not including core governance costs rather than just removing the prohibition. We support this clause, with one recommendation.
	Recommendation	WCC recommends that the Select Committee: <ul style="list-style-type: none"> <li>amend clause 45 to state that a council may use a targeted rate to fund a community board's activities [ not including core governance costs] .</li> </ul>
<b>Endowment Land:</b> <ul style="list-style-type: none"> <li>removing the requirement to signal intention to sell endowment land in a long-term plan (clause 33)</li> </ul>	Support 	Significant property transactions would trigger consultation under broad decision-making principles.