
Supplementary Information to Chief Executive's Update Report

Tabled at the Full Council Meeting

Thursday, 12 December 2019

Staff have previously signalled the large volume of reforms and legislation changes being progressed by central Government. Since the agenda for 12 December Full Council meeting was published, more changes have come to light with significant impacts for councils and ratepayers. It is challenging to find the resources to prepare quality submissions but I am equally concerned that the timing of announcements and deadlines for submissions seriously limits council's ability to discuss these changes and offer input. As a result public awareness and participation may also be confined.

You may recall that this concern was raised by staff during the pre-election period. I am bringing it to your attention again because the consequences of some of the proposed changes would impact on fundamental council functions e.g. the Urban Development Bill proposes wide sweeping powers for Kainga Ora to re-develop urban areas including consenting, use of compulsory acquisition powers, the setting of development contributions and rates including placing an obligation on councils to collect rates on behalf of Kainga Ora.

The proposed changes and deadlines are summarised below:

Crown Minerals Bill (27 January)

Complete reform of the management of minerals such as gold, oil and gas, precious metals and even aggregate. We are not proposing to make a submission.

Resource Management Reform Package (3 February)

The Government's specially appointed panel investigating the wholesale reform of the Resource Management Act is currently seeking feedback on the future of this important legislation. Dennis Bush-King is considering whether and how to reply.

Waste Management Levy Review (3 February)

On 27 November 2019, central Government opened consultation and presented four options for increases in scope and scale of the Waste Disposal Levy ('landfill levy'). The levy is currently set at \$10 per tonne (excluding GST) and one of the options is to increase the levy to \$20 per tonne from 1 July 2020. Staff will be working with Nelson City Council staff and the Nelson Tasman Regional Landfill Business Unit (NTRLBU) general manager to review the potential impact of the increase on the councils and the business unit.

An increase in landfill levy will add cost to landfill activities but will also increase funding for waste minimisation. This increase would be via the 'local government share' of waste levy income paid to each territorial authority by the Government.

Department of Internal Affairs (DIA) FENZ Levy Review (5 February)

The Government is reviewing the way that Fire and Emergency New Zealand (FENZ) is funded. Presently, FENZ is funded by levies through property insurance. If you insure your house or contents, some portion of your insurance bill goes to pay for Fire and Emergency.

This DIA review explores whether non-insurance funding options would be viable. There is currently a halt to the implementation of the new FENZ levy regime pending the outcome of the review. In the opinion of the insurance industry the current insurance based levy approach is deeply flawed and unsustainable. In their view proposed revised approach is even more so. There has been 18 months of work by IBANZ (Insurance Brokers Association of NZ), the insurance council, FENZ and government that has in IBANZ's opinion failed to make the system work in a practical way.

Within the consultation document, any funding of Fire and Emergency predominantly through general taxation is to be excluded from the proposals. One of the options put forward is a property and use-based approach - a charge based on property data held by local authorities, such as value or size, alongside considering how the property is used (e.g. the contents of buildings). If funding moved to a property based approach, the levy could be collected by local authorities alongside rates or via a purpose built central collection agency (e.g. Fire and Emergency could be responsible for collecting its own funding) using local authority information. It is also suggested that local authorities could provide some support to reflect Fire and Emergency's wider benefits for local communities. This could be an in-kind contribution (e.g. collecting the levy on Fire and Emergency's behalf or providing the data if a property based approach is preferred).

Ratepayers already fund the provision of water for firefighting capability that has a significant infrastructure cost and its use is not charged to FENZ.

There are therefore questions in the consultation document for Council to respond to. Consultation will run until 5 February 2020. This means that a submission on behalf of Council will need to be made prior to the next Council meeting.

Burial and Cremations Act (28 February)

The Ministry of Health is consulting on options to reform the Burial and Cremation Act 1964, the Cremation Regulations 1973 and the Health (Burial) Regulations 1946. The consultation document and related survey can be found here <https://consult.health.govt.nz/environmental-and-border-health/death-funerals-burial-and-cremation/>

There are a range of complex issues involved in updating the legislation. The consultation document covers the following five areas:

- death certification and auditing;
- regulation of the funeral services sector;
- burial and cemetery management;
- cremation regulations and the medical referee system; and
- new methods of body disposal.

Each section proposes a range of options in relation to the topic. The Ministry has indicated its preferred option in each section and is now seeking feedback on the options to inform changes to the legislation and regulations.

The Ministry prepared the consultation document following the 2015 Law Commission report *Death, Burial and Cremation: A new law for contemporary New Zealand*, which made

recommendations to modernise the law that governs death, burial, cremation and funerals in New Zealand.

Beryl Wilkes (Senior Horticulture Officer) provided input into the earlier work on the review, as part of a local government sector working group. Beryl is now co-ordinating a cross-Council response to the consultation document in time for the 28 February 2020 closing date.

National Policy Statement on Indigenous Biodiversity (14 March)

This sets new rules for the protection of significant natural areas and sets a timeframe in which local authorities will have to comply. The NPS will provide direction to councils in their responsibilities for identifying, protecting, managing and restoring indigenous biodiversity under the Resource Management Act. Pauline Webby (Policy Planner-Natural Resources) is coordinating Council's submission.

The Ministry for the Environment, alongside the Department of Conservation, will also be arranging meetings around the country during the consultation period.

The Government's declared objectives of the NPS-IB are to:

1. Bring more clarity to the role of local authorities in biodiversity management under the RMA than may be apparent on the face of the Act itself.
2. Support the existing good work of local authorities to date and secure the gains made in terms of regional and local planning responses.
3. Encourage local authorities that operate below best practice to enhance their efforts by introducing a "bottom-line" category of site whose values are to be recognised and protected through the RMA.
4. Help decision-makers appropriately balance the protection of biodiversity, the interests and values of tangata whenua, the rights and responsibilities of landowners and the broader national interests that may be at stake in future resource management decision-making.

How this will impact on our Native Habitats Tasman work programme remains to be seen but for nearly 19 years we have been working with landowners to voluntarily support indigenous biodiversity protection and enhancement.

Bills Introduced and Referred to Select Committee

Two Bills have been introduced into Parliament and the Select Committees to which they have been referred have yet to set a closing date for submissions, but that can be expected to be notified before Christmas. The two Bills are:

Urban Development Bill

This Bill gives Kianga Ora wide sweeping powers to re develop urban areas. It gives substantial consenting powers and also enables the use of compulsory acquisition powers, the setting of development contributions and rates. In relation to rates, local authorities will be obliged to collect them on behalf of Kianga Ora.

Taumata Arowai - Water Services Bill 2019

The Taumata Arowai - Water Services Bill 2019 had its first reading 11 December 2019.

Scope

- All water suppliers, other than domestic self-supplies, will be included within the scope of the new Regulatory system:
 - exemptions may be issued if the requirements are impracticable or unreasonable e.g. back country huts.
- All suppliers are to provide safe, reliable & potable water and comply with the DWSNZ.
- Councils will ensure that communities have access to a reliable source of safe drinking water by:
 - identifying supplies in their district;
 - working collaboratively with suppliers and consumers to address issues;
 - if there is no solution, or a supplier exits, Council is obliged to ensure safe drinking water continues to be provided; and
 - the regulator will ensure that Council meets its obligations.
- All suppliers will prepare and implement a Water Safety Plan (WSP):
 - WSP is proportionate to scale, complexity & risk of supply; and
 - the regulator will audit and monitor WSP's.
- Regional, district councils and suppliers will assess and manage risks to sources. They will:
 - develop a source risk management plan;
 - monitor source water quality and share information; and
 - Council will report annual trends in quality, quantity and effectiveness of risk management actions.
- All suppliers will adopt multi-barriers i.e:
 - prevent hazards entering source water;
 - remove particles and hazardous chemicals by physical treatment;
 - kill or inactivate pathogens by disinfection;
 - maintain water quality in the distribution .
- Regulator can exempt a supplier from residual disinfection of the distribution zone, if they can demonstrate all risks are being managed appropriately.
- Regulator tools include:
 - giving assistance and advice;
 - requiring information;
 - instant fines and infringement notices;
 - compliance notices;

- criminal enforcement;
- appointing a person or organisation to operate the supply on a temporary basis; and
- requiring transfer of management and operations to another supplier.
- Regulator may:
 - accredit certain suppliers e.g. Council run schemes;
 - licence water operators/supervisors/managers (any size supply); and
 - accredit drinking water assessors.

Crown Entity

- The Taumata Arowai - Water Services Regulator will be a new Crown entity. It will be based on a centralised, national structure with regional presence and working with delivery partners and providers e.g. science, education, iwi/māori, DHB/PHU, local government, community organisations, industry bodies and accreditation agencies.
 - Examples of regional co-location sites for staff include Work Safe NZ and Regional Councils.
- Drinking water will be the primary focus of the new Regulator, however it will provide oversight of, and advice on, the regulation, management and environmental performance of wastewater and storm water networks.
- An Establishment Board is to be established to transition the current regulatory framework to a new system over the next 12-18 months. It will include staff from Department of Internal Affairs, Ministry of Health and Ministry for the Environment, along with a Maori Advisory Group.
- It is proposed that the Regulator will be formally instituted in April 2021, replacing the Establishment Board.
- Explicit objectives will focus on upholding Te Mana o te Wai, as defined in the National Policy Statement for Freshwater Management.

Timeframes

- Compliance timeframes are signalled at Years 3 (large/medium supplies) and 5 (all supplies).
- All supplies are to be registered in Year 1 (including the new 7,000+ supplies serving between two-households and up to 25 people (the current lowest population covered by the Health Act)).

These latest reviews come on top of a number of Government reviews that were released over the 2019 local elections period. While submissions to these reviews have closed, the impact of the reviews to Council's work programme and the additional demands on Council resources can not be underestimated. These earlier reviews include:

- Biodiversity Strategy - Te Koiroa ot Koiroa
- National Policy Statement on Highly Productive Soils

- National Policy Statement on Urban Development Capacity
- Amendments to Schedule 1 of the Building Act
- Resource Management Amendment Bill 2019
- The Essential Freshwater Package

While the Government have said that these reviews are all coming to fruition in time for the 2020 Central Government election cycle, the cumulative effect of all these changes have significant implications for the business of local government. The number of reviews is high and the capacity of the local government sector to respond in an informed and constructive manner is severely hampered because of the timing and the number of changes occurring at the same time.

Local Government New Zealand (LGNZ) has signalled its intention to submit on each of the most recent reviews, including the two additional Bills introduced to Parliament.

Janine Dowding

Chief Executive