

# Have Your Say on Rodney Hide's proposed changes to local government – including privatisation of water

## Guide to Making a Submission on the Local Government Act 2002 Amendment Bill

### What is a Bill?

Bills are drafts of proposed new laws. Parliament considers several different types of a bill in formal stages. If they pass through all those stages they become new laws, called Acts of Parliament. After the first stage a bill is referred to select committee.

### What is a Select Committee?

One of the jobs of the select committee is to scrutinise bills in order to improve them. The select committee provides an opportunity for the public to have a say on the contents of a bill. The Local Government and Environment Select Committee has called for submissions on the Local Government Act 2002 Amendment Bill which are due by **18 June 2010**.

The select committee members are: National Party: Louise Upston, Nicky Wagner, Cam Calder, Chris Auchinvole (Chairperson), Nikki Kaye; ACT: David Garrett; Green Party: Sue Kedgley; Maori Party: Rahui Katene; Labour Party: George Hawkins, Shane Jones, Phil Twyford.

### What does the bill do?

The Bill makes a number of changes to the Local Government Act 2002:

- It loosens the restrictions on private involvement in water supply, allowing private control and ownership of water infrastructure for up to 35 years
- It makes it easier for Councils to bring in the private sector to manage assets, or deliver services
  1. by removing the requirement for Councils to consult the public before
    - contracting out public services to the private sector
    - corporatising public services into a council-owned company
  2. and repealing the requirement for Councils to have a policy on partnerships with the private sector
- Reduces other obligations on Councils to consult the community as part of its planning process, including getting rid of the obligation for Councils to include in its long term plan (and thus consult the public on)
  - a decision to construct, replace or abandon a strategic asset
  - a decision that will significantly affect the capacity of or cost to a Council of any activity
- Imposes an arbitrary list of 'core services' that excludes community well-being (for instance pensioner housing), environmental protection and economic development

- Requires Councils to publish a pre-election financial report, develop a financial strategy as part of their long term plans, and attempts to improve the information in long term plans to make them more comprehensible.

### **Labour opposes this bill.**

We believe New Zealanders do not want our water supply system to be privatised. Water is a basic human right and its management and supply should not be driven by the profit motive. Because it is impractical to build competing dams, pipelines and treatment stations, water supply is a natural monopoly. It makes no sense economically to hand over a monopoly to the private sector.

We oppose the bill's removal of democratic safeguards against corporatisation and contracting out of public services. Contracting out and corporatisation can have major implications for quality of service, fair access, pricing, and the long term capacity of local government. The public deserve to be consulted before such decisions are made.

We oppose the arbitrary imposition of a list of core services that omits such essentials as community well-being, environmental protection, and economic development.

We call on the Select Committee to carefully weigh up the efficiency benefits of reducing requirements on Councils to consult the community against the loss of democratic accountability.

Similarly we call on the Select Committee to carefully consider whether the financial transparency measures in the Bill will in fact assist the public in holding Councils accountable; and whether or not that benefit outweighs the additional compliance burden.

This Bill weakens our democratic process in local government, and promotes increased private sector involvement in local government operations, including water supply. It follows on from the Government's sacking of Environment Canterbury and the suspension of elections there for three and a half years. It adds to the Government's Auckland Super City where it has imposed an over-centralised model that weakens the voice of communities and transfers power over three-quarters of local government operations to hand picked boards.

### **Specific provisions**

#### ***Clause 4 – Definition of community outcomes***

Currently community outcomes in the Council's plan are defined through public consultation and can include a full range of public good outcomes the community wants to see, including things the Council cannot deliver on its own but can pursue through advocacy or coordination with other bodies (e.g. crime prevention, health, housing etc). This clause substitutes a definition of community outcomes that is narrower: "...outcomes that a local authority aims to achieve in order to maintain and improve the social, economic, environmental and cultural well-being of its district or region..."

**Recommendation:** Oppose.

#### ***Clause 5 – Core Services***

A local authority "must have particular regard" to the following core services:

- Network infrastructure
- Public transport services
- Solid waste collection and disposal
- The avoidance or mitigation of natural hazards
- Libraries, museums, reserves, recreational facilities, and other community infrastructure

This provision omits things many Councils and many ratepayers consider essential: community well-being (including pensioner housing), economic development, and protection of the environment. The Bill does not prevent Councils from engaging in activities outside its definition of core, but it is arguable that increased emphasis on planning, measuring and reporting on these services will come at the expense of the non-core.

**Recommendation:** Delete this clause, rather than trying to amend it.

### ***Clause 6 – Principles relating to local authorities***

This inserts a new requirement for a Council to satisfy itself that expected returns from an investment are likely to outweigh the risks inherent in that investment. This is unduly restrictive and could prevent a Council from investing in an activity that was justified by a public good outcome, or one that there was strong public demand for.

**Recommendation:** Oppose.

### ***Clause 8 – Community consultation***

This clause removes the four prescribed stages of decision making at which the community must be consulted. Community views and preferences will still have to be considered but the Council can decide at what stage this happens.

**Recommendation** – Select Committee to carefully weigh up loss of community input against claimed efficiency gains.

### ***Clause 11 – Increasing private involvement in local government***

This clause repeals s88 of the Local Government Act 2001 which requires a Council use the special consultative provisions of the Act if it wants to change the way a service is delivered (for instance by setting it up as a council-owned company, or by contracting out to the private sector). Contracting out and corporatisation can have major implications for quality of service, fair access, pricing, and the long term capacity of local government. The public deserve to be consulted before such decisions are made.

**Recommendation** – Oppose.

### ***Clause 12 – Community outcomes***

This clause repeals sections 91 and 92 which require a Council to report separately and thoroughly on the progress made towards achieving community outcomes. Under the Bill reporting on community outcomes is folded into the long term plan.

**Recommendation** – Select Committee to consider carefully whether this provision will result in a net loss of transparency and accountability. If it does, then this clause should be deleted.

### ***Clause 14 - Certain decisions to be taken only if provided for in long-term council community plan.***

This clause repeals sections 97(1)(c) and (d) which mandate Councils include in the long-term plan and therefore consult on constructing, replacing or abandoning strategic assets or decisions significantly to affect the capacity or the cost or level of a service. Such decisions must be transparently made with the community having input into the decision should it so choose. It is inconsistent when consultation is still to be required on transferring an asset and therefore it should be retained for constructing or abandoning an asset.

**Recommendation** – Oppose.

### ***Clause 17 – Requirement for a financial strategy***

This clause requires Councils to have a financial strategy in their long term plan, which among other things requires a statement on 'quantified limits on rates, rate increases and borrowing'. Labour questions whether this is either practical or desirable. It arguably could prevent a Council from responding to a natural disaster, or responding to an opportunity that has arisen.

**Recommendation** – Delete new section 101A(3)(b)(i) which would require quantified limits on rates, rate increases and borrowing.

### ***Clause 23 – Policy on partnerships with private sector***

This clause repeals s107 which requires Councils to have a policy on partnerships with the private sector. This is illogical. The Bill has extensive provisions designed to encourage greater private sector involvement but then removes the requirement for Councils to have a policy on private sector partnerships.

**Recommendation** – Oppose.

### **Clause 31 & 32 – Contracts relating to water services**

These are the privatisation clauses. Cl 31 extends the restriction on the duration of contracts for water services from 15 years to 35 years. While it says the Councils are responsible for providing the water services, and retaining control of pricing and policy, it removes the requirement that Councils control the management of those services. Cl 32 removes the obligation for the Council to own the infrastructure for the duration of the contract. It requires ownership to be returned to the Council at the end of the contract.

The Government argues it is not privatisation because it does not allow the permanent sale of an existing asset. We say this is semantics. The Bill allows private ownership and control of a dam, or a pipeline or a treatment plant for up to 35 years. It is privatisation.

These provisions are designed to encourage Public Private Partnerships (PPPs) which are the most common form of privatisation used in the water sector internationally. These contracting arrangements take a number of forms: franchise agreements, BOOT schemes (Build, Own, Operate, Transfer), and schemes to design, build, finance, maintain and operate.

The permanent sale of municipal water infrastructure is not allowed under the law. The 2002 Act does not allow private ownership under PPP contracts, and limits contracts to 15 years – both those provisions are amended under this Bill.

The Government says PPPs will make it easier for budget-strapped smaller councils to invest in costly infrastructure. However it must be remembered that PPPs do not bring 'free money'. All the cost of building infrastructure can only be paid for through rates (or taxes) and user charges. Corporations do not contribute their own money to these projects, and of course their profit margins must be factored in.

There is no evidence of superior efficiency of the private sector in water. A recent paper by the World Bank, in partnership with the Public-Private Infrastructure Advisory Facility (PPIAF) claims that there may have been gains in labour productivity (by reducing jobs or cutting wages) but could not find any evidence of lower prices or higher investment, and so: "...the private operator may reap all the gains through profits, passing none of the cost savings to consumers".

Two French companies, Veolia and Suez, now dominate the world market for private water services, with a combined turnover of \$159 billion annually. Both have been accused and in some cases convicted of fraud, corruption and anti-competitive practices. They push for privatisation in other countries, but partial ownership by the French Government protects them from foreign takeovers in France.

France is the home of PPPs in the water sector and they exported them to the world. But in the last decade we have seen a wave of 'remunicipalisation' as cities and countries around the world have terminated contracts with the big water multinationals. The new municipal government of Paris was elected in 2009 on a platform of terminating its contracts with Veolia and Suez and bringing its water system back under public control. Paris is one of more than 40 French municipalities to reclaim public control of water in the last decade.

Two decades of water privatisation internationally has produced a very patchy record. In the 17 years after privatisation of Britain's water, the average water bill increased by 245%, a rise of 39% above the rate of inflation. In 1995 the South Australia Liberal Government contracted out its urban water supply to United Water for 15 years. Fifteen months into the contract Adelaide residents experienced "the big pong" which engulfed the city in a powerful sewage smell. It lasted three months. An independent investigation found the cause was equipment failure and lack of monitoring caused by company cost cutting.

Veolia, and its wholly owned subsidiary United Water has 23 long term water contracts in Australia and New Zealand, involving around 40 water and waste-water treatment plants. It has more than 840 employees and provides services to 2.9 million people. In New Zealand, United Water has contracts to operate water infrastructure in Papakura, Ruapehu, Thames Coromandel, Wellington, Waitomo, Franklin, Queenstown Lakes. It is likely this Bill would open the door to a massive expansion of opportunity for United Water to own and run water and waste water infrastructure in New Zealand.

**Recommendation** – Oppose.

## What is a Submission?

A submission is the presentation of views on a matter under consideration by a select committee. By writing or presenting a submission, you are providing the committee with your own insights, observations and opinions. The reasons that you provide for any changes that you believe should be made, or actions you believe should be taken, will give validity to your submission.

### Written Submissions:

Please present your submission in a way that is ordered and easy to read. You should include the following information in your submission:

Heading: Head your submission with the name of the select committee to which it is addressed and the full title of the bill.

Who is it from? Clearly state who the submission is from. State your name or give the name of the organisation you are representing. Include a contact address, an email address and daytime telephone number.

Oral submission? Clearly indicate whether you would like to speak to the committee in person. If you wish others to appear in support, include their names and, if representing an organisation, designations.

Content: Your submission does not have to cover everything in the Local Government Act 2002 Amendment Bill, you can focus on one particular aspect or aspects, or make a general statement. However make sure it only addresses specifically the matters raised in the bill. Consider listing your submission's recommendations or summing up its main points.

### Oral Submissions:

Oral submissions provide you with the opportunity to reinforce what you have said in your written submission. They also allow the committee to clarify points raised in that submission. If you want to appear before the committee to speak to your submission should state this clearly and provide a daytime telephone contact number. To assist with administration please supply your postcode and an email address if you have one.

### Sending your Submission:

Two copies of your submission should be sent by post to:

Committee Secretariat  
Local Government and Environment  
Parliament Buildings  
Wellington

Or you can make an on line submission at: <http://tinyurl.com/242bk5o>

The deadline for submissions is **18 June 2010**.

### For more info:

The Parliament website on the Bill <http://tinyurl.com/2bbk78l>

Download a copy of the Bill <http://tinyurl.com/2e85csv>

Download a booklet on how to make a submission to a select committee <http://tinyurl.com/2abcde6>

Read what MPs had to say in the first reading of the Bill <http://tinyurl.com/2978rzt>

Red Alert blog post *When is water privatisation not water privatisation?* <http://tinyurl.com/2cz6yzb>