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Governance and Administration Committee
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**ECO Submission Rev 1 on the Local Government (Community Wellbeing)
Amendment Bill 2018**

1. Introduction

ECO is an organisation of around 50 member organisations and it is supported by Friends of ECO. We welcome this opportunity to make a submission on the **Local Government (Community Wellbeing) Amendment Bill 2018**. ECO has been involved in issues of resource management and open government since its formation 47 years ago.

This submission has been prepared by members of ECO Executive and is in line with ECO Policy and our Objectives.

ECO welcomes this Bill and its reinstatement of the four wellbeings and the framing of local government decisions within sustainable development. We welcome most of the changes proposed but have some suggestions in relation to some clauses in the Bill and to the framework and hierarchy of decision objectives and criteria.

ECO wishes to be heard in support of this submission.

This submission presents some of our main submissions; cites rationales for the submissions, then turns to the Bill itself and presents our suggested amendments to the Bill with coloured track changes.

Please see the covering email for further contact details.

2.0 Key Submission Points on the Bill

- 2.1 ECO congratulates the Minister of Local Government, Naania Mahuta and the parties behind this bill for the restoration of the four well-beings and the pursuit of sustainable development into the Local Government Act.
- 2.2 Given however the evidence of the enormous impacts of humanity on the environment and biophysical systems, we suggest that there be a specific provision for any pursuit of well being to be within environmental system limits. and other environmental constraints.
- 2.3 ECO supports all the clauses in this Bill that restore the provisions removed by the amendments of the **Local Government Act 2002 Amendment Act 2012 but we consider that there should be reference in the amended Act to the Sustainable Development Goals and to biophysical limits and system limits.**

Our support includes the restoration – and augmentation - of the 2002 Purpose statement, the sustainable development framing of considerations, the restoration of the four well beings, and the provisions to restore local authorities' powers to require development contributions.

There is a huge amount of research that shows that well being is contributed to by social connectedness, access to decision making, healthy and accessible environments, employment, security of person and avoidance of harm, the development of trust and reciprocity and more¹.

The Sustainable Development Goals summary can be found at: <https://sustainabledevelopment.un.org/?menu=1300> and the MFAT page on the SDGs is at <https://www.mfat.govt.nz/en/peace-rights-and-security/work-with-the-un-and-other-partners/new-zealand-and-the-sustainable-development-goals-sdgs/>

¹ Stiglitz, J., Sen, A., Fitoussi, J-P. (2009). *Report by the commission on the measurement of economic performance and social progress.*

<http://www.stiglitz-sen-fitoussi.fr/en/index.htm> ; Watson, Robert & A. H. Zakri, (co-chairs) (2005). “Living Beyond our Means: Natural Assets and Human Wellbeing”, *Millennium Ecosystem Assessment*. See www.maweb.org. See particularly the first section pp. 2-20 (pagination as per the final draft); Gleisner, Ben, Llewellyn-Fowler, Mary and Fiona McAlister (2011) Treasury Working Towards Better Living Standards for New Zealanders. The Treasury, Wellington, <http://www.treasury.govt.nz/publications/research-policy/tp/higherlivingstandards/tp-hls-may11.pdf> ; Ministry for the Environment – Environmental Reporting – methods and indicators. <http://www.mfe.govt.nz/environmental-reporting/>

- 2.4 ECO urges that any clauses in the 2008 Act that undermined the building and maintenance of responsive, democratic, participatory and open government also be removed.
- 2.5 ECO believes that most New Zealanders want an efficient and effective local government, but not at the cost of losing local participation and decision making, or of damage to the environment. Hence **we consider there should be some further provisions in the LGA to achieve the SDGs proposals, and to explicitly require that there are provisions for a transition to a low carbon economy.**
- 2.6 ECO supports an open, participatory sustainable development and ecosystem-based approach to frame local authority planning and governance. Such an approach is consistent with international agreements and norms, such as the Aarhus Convention, the Sustainable Development Goals agreed to by nations and the Convention on BioDiversity. The new Pact for the Environment, signed in Paris in 2018, while a bit weak, should also be considered.
- 2.7 Local councils are frequently in a better position to determine and respond to local needs than central government or the private sector. In many cases the private sector will contribute to local government activities rather than providing the services (or local authorities will contribute to activities run by civil society) e.g. local youth activities or cultural festivals. This builds social capital and an engaged participative society.

3 Rationales: ECO said this in 2008 in defence of the 2002 LGA Act, and in opposition to the 2008 proposed changes:

Sustainable Development depends on a much more holistic approach integrating economic, social, environmental and cultural policies and outcomes, and recognises the need to involve and consult with communities at all levels. Sustainable development approaches consider and achieve co-benefits – for example local authority supported home insulation schemes as in the Environment Canterbury Clean Heat Project achieve energy conservation, health benefits and clean air.

In 1992 when the New Zealand Government signed at UNCED (United Nations Conference on Environment and Development) the Agenda 21 with its Chapter 28 statement on Local Authorities, it recognised Local Authorities *“as the level of governance closest to the people, they play a vital role in educating, mobilizing and responding to the public to promote sustainable development”*

At Rio+20 June 2012 the New Zealand Government reaffirmed this principle in Paragraph 43

“we reaffirm the key role of all levels of government and legislative bodies in promoting sustainable development ...recognize the important role that such authorities and communities can play in implementing sustainable development,

including by engaging citizens and stakeholders ...”

Paragraph 98 of the Rio+20 agreement states: “**We encourage regional, national, subnational and local authorities as appropriate to develop and utilize sustainable development strategies as key instruments for guiding decision-making and implementation of sustainable development at all levels, and in this regard we recognize that integrated social, economic and environmental data and information, as well as effective analysis and assessment of implementation, is important in decision-making processes.**”

Integral to this is the recognition in Paragraph 43: “**We underscore that broad public participation and access to information and judicial and administrative proceedings are essential to the promotion of sustainable development. ...we agree to work more closely with Major Groups and other stakeholders and encourage their active participation, as appropriate, in processes that contribute to decision making, planning and implementation of policies and programmes for sustainable development at all levels.**”

Clearly local councils are in a better position to determine and respond to local needs than central government or the private sector. In many cases the private sector will contribute to local government activities rather than providing the services (or local authorities will contribute to activities run by civil society) e.g. local youth activities or cultural festivals. This builds social capital and an engaged participative society.

Sustainable Development depends on a much more holistic approach integrating economic, social, environmental and cultural policies and outcomes, and recognises the need to involve and consult with communities at all levels. Sustainable development approaches consider and achieve co-benefits – for example local authority supported home insulation schemes as in the Environment Canterbury Clean Heat Project achieve energy conservation, health benefits and clean air.

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Integral to this is the recognition in Paragraph 43: *“We underscore that **broad public participation and access to information and judicial and administrative proceedings are essential** to the promotion of sustainable development. ...we agree to work more closely with Major Groups and other stakeholders **and encourage their active participation**, as appropriate, in processes that contribute to decision making, planning and implementation of policies and programmes for sustainable development at all levels.”*

Changes identified the Local Government Act 2002 Amendment Bill 2012 will remove the identification of sustainable development as purpose of local authorities, and with consequent and other changes will restrict the very activities and functions which promote ‘broad public participation’ and access to judicial and administrative proceedings ‘essential to the promotion of sustainable development’ and the agreement to work more closely with Major Groups² and ‘encourage their active participation’.

Two further points to be made on this change are:

- while good-quality is defined in the Bill to mean “infrastructure, services and performance that are efficient and effective and appropriate to present and anticipated future circumstances:” this is neither broad enough nor clear enough to avoid inviting legal challenge by interest groups. That could lay the ground for expensive litigious charges against Local Authority decisions.

The changes proposed for the Purpose of the Act set up an inconsistency with the sustainable management purpose stated in the RMA (Section 5) which may create problems in implementing a local authority’s responsibilities under the RMA.

4 ECO’s Clause by Clause Proposals

ECO proposes the following amendments to the Bill are presented below.

NOTE: We have used red text with underlines and bold for insertions, strikethrough for deletions (if any), and blue text for ECO’s comments. Black Text is from the Bill itself.

² Major Groups as identified in Agenda 21 and subsequent agreements to include” civil society organisations, including business and industry, have been represented Women, Children and Youth, NGOs, Indigenous Peoples, Business and Industry, Workers and Trade Unions, Science and Technology, Farmers, and have been recognised as playing important and increasing roles as partners in sustainable development.

Part 1

Reinstatement of 4 aspects of community well-being

4 Section 3 amended (Purpose)

Replace section 3(d) with:

(d) provides for local authorities to play a broad role in promoting the social, economic, environmental, and cultural well-being of their communities, taking a sustainable development approach **and giving effect to the UN Sustainable Development Goals and a transition to a low carbon future with flourishing native biodiversity.**

5 Section 5 amended (Interpretation)

(1) In section 5(1), replace the definition of **community outcomes** with:

community outcomes means the outcomes that a local authority aims to achieve in order to promote the social, economic, environmental, and cultural well-being of its district or region in the present and for the future.

(2) In section 5(1), replace the definition of **good-quality** with:

good-quality, in relation to local infrastructure, local public services, and performance of regulatory functions, means infrastructure, services, and performance that are—

- (a) efficient; and
- (b) effective; and
- (c) appropriate to present and anticipated future circumstances;
- d) consistent with sustainable development and transition to a low carbon future and the flourishing of native biodiversity and biophysical systems;**
- e) timely**
- f) consistent with open government processes**
- e) implement the Precautionary Principle and Approach to protect the environment.**

(3) In section 5(1), definition of **significance**, replace paragraph (a) with:

(a) the current and future social, economic, environmental, or cultural well being of the district or region, **for the wider public interest and concerns voiced by the public.**

Section 10 amended (Purpose of local government)

(1) Replace section 10(1)(b) with:

(b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future while maintaining biophysical systems and functions in good health.

(2) Repeal section 10(2).

Section 11A of the Principal Act: Core Services to be Considered in Performing role:

ECO suggests the addition to the Bill of the following amendments to Section 11A of the Principal Act to ADD two extra powers

Insert into S 11A : Core Services to be Considered in Performing role:

f) protection of the natural environment

g) managing the rapid and just transition in their areas to a low carbon future;

Section 12 Status and Powers

ECO submits that the Purpose of the Bill would be contributed to by the incorporation into it of the following amendment by inserting additional text to Section 12 (4):

(4) A territorial authority must exercise its powers under this section wholly or principally for the benefit of its district, subject to the protection of the natural environment and the rapid and just transition of New Zealand to a low carbon future.

7 Section 14 amended (Principles relating to local authorities)

(1) Replace section 14(1)(c)(iii) with:

(iii) the likely impact of any decision on each aspect of well-being referred to in section 10:

(2) In section 14(1)(h)(i), replace “interests” with “well-being”.

(3) In section 14(2), after “principles”, insert “, or any aspects of well-being referred to in section 10, are in”.

ECO supports these provisions.

8 Section 101 amended (Financial management)

Replace section 101(3)(b) with:

(b) the overall impact of any allocation of liability for revenue needs on the current and future social, economic, environmental, and cultural well-being of the community.

ECO suggests it would be timely to recognise some of the limitations of GDP accounting systems including those of the National Accounting System which is well recognised to be flawed.

We propose that councils adopt one or more natural, environmental and social accounting systems, including accounting for natural and social capital.

The NZ Treasury is adopting and trying to implement the concepts that are now accepted internationally. Local government should be required to recognise and properly protect and maintain all kinds of capital including moving beyond the narrow understanding of wealth,... [and not] ignoring the state of assets like forests, [climate, marine systems] or coastal areas – vital natural capital".(Clegg, at the Rio Earth Summit] This would be a much more innovative and appropriate way to establish capital and financial prudence requirements and is an opportunity missed hitherto in reforms to local government.

More than 50 countries are already members of the Wealth Accounting and Valuation of Ecosystem Services (WAVES) initiative (www.wavespartnership.org/waves/). Growing numbers of business leaders internationally are committing to initiatives like the financial sector's Natural Capital Declaration and the Natural Capital Leadership Compact for the Financial Sector.

9 Schedule 10 amended

(1) In Schedule 10, replace clause 2(1)(c) with:

(c) outline any significant negative effects that any activity within the group of activities may have on the social, economic, environmental, or cultural well-being of the local community:

(2) In Schedule 10, replace clause 23(d) with:

(d) describe any identified effects that any activity within the group of activities has had on the social, economic, environmental, or cultural wellbeing of the community.

ECO supports these amendments.

Part 2 **Other amendments**

10 Section 11A repealed (Core services to be considered in performing role)

Repeal section 11A.

ECO has proposed additional “core services” but we are also content with the removal of 11A altogether.

11 Section 197 amended (Interpretation)In section 197(2),

replace the definition of **community infrastructure** with:
community infrastructure—

- (a) means land, **and aquatic environments** or development assets on land **and aquatic environments**, owned or controlled by the territorial authority for the purpose of providing public **services and** amenities; and
- (b) includes land **and aquatic environments** that the territorial authority will acquire for that purpose .

ECO notes that this is not intended to prejudice Maori or government claims to aquatic environments but rather to ensure that “infrastructure” includes the whole areas of authority of Regional and local councils. The Committee and its advisors may be able to find better language to express this.

ECO suggests, as a precautionary measure, that there be inserted a provision into the Act to the effect that :

In the event that the Thames–Coromandel District Council and Hauraki District Council Mangrove Management Bill is passed and becomes an Act, the Local Government Act overrides the Thames–Coromandel District Council and Hauraki District Council Mangrove Management Bill.

5 Finally, ECO is grateful for the opportunity to make this submission and wishes to be heard. We hope these suggestions are adopted.

Cath Wallace,

Co-chair of ECO for the ECO Executive.