



# Submission on the Local Government (System Improvements) Amendment Bill

27 August 2025

To Governance and Administration select committee

## Submitter details

This submission is from the Parliamentary Commissioner for the Environment, Simon Upton.

I wish to appear before the committee to present my submission.

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## Parliamentary Commissioner for the Environment

The Parliamentary Commissioner for the Environment was established under the Environment Act 1986. As an independent Officer of Parliament, the Commissioner has broad powers to investigate environmental concerns and is wholly independent of the government of the day. The current Parliamentary Commissioner for the Environment is Simon Upton.

## Introduction

Over the years, Parliament has given local government functions and responsibilities that extend well beyond the Local Government Act 2002. These include responsibilities under the Resource Management Act 1991, where my primary interest in this Bill stems from, and many others.

Expressing the general purpose of local government in relation to the ‘four well-beings’ might be considered too amorphous and all encompassing. Equally, trying to confine local government to a tightly drawn list of ‘core services’ is likely to be equally fraught, given the wide range of statutory functions and duties that fall to councils. It would be particularly problematic if this Bill is intended to limit or prioritise local government spending (as implied by clause 18), as councils would have responsibilities that they are required by law to perform, but would be constrained from funding. This will not only risk environmental degradation, but overlooks the fact that maintaining or improving the natural and biophysical environment may be necessary for, or ancillary to, the delivery of ‘core services’.

## Determining the ‘core services’ of local authorities

“Cores services to be considered in performing role” is a concept that previously featured in the Local Government Act, (being added by the Local Government Amendment Act 2010 but then repealed in 2019).<sup>1</sup> From a reading of the 2010 Regulatory Impact Statement, the addition of ‘core services’ was intended to give priority to their provision, before a council considered funding other activities. ‘Core services’ were identified as functions that typically included the provision of public goods, public transport services, public health and environmental services, culture recreation and heritage, and regulatory responsibilities. These were based on services that were understood to enjoy broad public agreement, rooted in the role local government had historically played in society. It was proposed that a ‘core services’ clause should be added, specifying the following services, as a non-exhaustive list:

- infrastructure (transport networks, water supply, sewage treatment and disposal, stormwater drainage, and flood protection works) and the purchase of public transport services;
- solid waste collection and disposal services;
- the mitigation of risk and protection of communities from natural hazards and disasters;
- libraries, reserves and recreational activities;
- the preservation/development of culture and heritage; and
- the performance of regulatory responsibilities and other statutory duties.<sup>2</sup>

As enacted, the list of core services was reduced, and the drafting of what became section 11A left little room for this to be interpreted as anything other than an exhaustive list of services.<sup>3</sup> The current amendment, as set out in clause 7 of the Local Government (System Improvements) Amendment Bill, follows similar drafting of the previous section 11A. This approach suggests priority consideration of these services, regardless of any other statutory functions conferred on local authorities.

The problem that this Bill seeks to address is that “Ministers are concerned that the current purpose of local government (i.e. the four well-beings) is driving higher rates because councils are spending on “nice-to-haves”, rather than focusing on core services and critical infrastructure”.<sup>4</sup> This problem statement, and the resulting language of clause 7, fails to acknowledge the breadth of services and activities that local authorities have **statutory** responsibility for. Meeting them comes with associated costs. And those costs must be borne somewhere in the system – by users, ratepayers or taxpayers. If central government is not prepared to provide funding for services and activities that are prescribed by law, a local authority must find funding elsewhere or risk the legal consequences of failing to perform statutory functions.

It would be perverse to argue that functions legally required of local authorities are not ‘core functions’. However, clause 7 (proposing section 11A) is drafted as a definitive closed list that precludes those other legally required responsibilities. There are two ways to amend the clause to avoid that outcome: either “the performance of regulatory responsibilities and other statutory duties” could be added to the list of core services; or the chapeau of proposed section 11A(1) could be redrafted to ensure the list is non-exhaustive.

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<sup>1</sup> See the Local Government (Community Well-being) Amendment Act.

<sup>2</sup> Regulatory Impact Statement: Improving local government transparency, accountability and financial management, 29 April 2010, para 113–114.

<sup>3</sup> Local Government Act 2002, s 11A, as at 27 November 2010.

<sup>4</sup> Regulatory Impact Statement: Refocusing the purpose of local government, 31 October 2024, para 2.

A separate amendment to clause 18 (proposed new section 101 (1AAA)) should also include “the performance of functions under this Act, or any other enactment”. That would help ensure that the costs incurred by councils in performing their other regulatory functions can also be funded, prioritised and accounted for in their budgets.

### Future-proofing responsibility for ‘core services’

The amendment assumes that ‘core services’ will always be the responsibility of, and priority for, local authorities. Yet the responsibilities of local government are frequently altered in the wake of Parliament altering legislation affecting local government. Retaining flexibility in local government legislation is particularly important for the environmental management system. Local government plays a key role, with a wide range of roles and responsibilities, including those laid out in the Resource Management Act 1991. It is likely that these responsibilities will continue to feature, in some form, under any successor legislation.

Based on the decisions that have been published so far, legislation replacing the RMA may reconsider the distribution of roles and responsibilities between central and local government, and the private sector. Core services currently provided by local authorities may, in some cases, end up being delivered by central government. Rather than define a new list of ‘core services’ and have them shortly rendered out of date, it would be preferable to await the enactment of the resource management reform legislation. This will ensure that the system design and funding implications can be accurately reflected in any changes to local government legislation.

Alternatively, the drafting of any ‘core services’ could provide for flexibility to accommodate future changes. My recommended drafting changes would do that. As acknowledged in the 2010 RIS, prescribing a list of core services risks being overtaken by events as the role of local government in society evolves.<sup>5</sup>

### Recommendations

I recommend that the Committee:

1. Amend clause 7 (proposed new section 11A) to either:
  - a) add “the performance of regulatory responsibilities and other statutory duties” as a core service; or
  - b) clarify that the list of core services is not exhaustive.
2. Add “the performance of functions under this Act, or any other enactment” to clause 18 (proposed new section 101 (1AAA)).



Rt Hon Simon Upton  
**Parliamentary Commissioner for the Environment**  
**Te Kaitiaki Taiao a Te Whare Pāremata**

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<sup>5</sup> Regulatory Impact Statement: Improving local government transparency, accountability and financial management, 29 April 2010, para 115.