

18. SUBMISSION ON THE AFFORDABLE HOUSING: ENABLING TERRITORIAL AUTHORITIES BILL

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PURPOSE OF REPORT

1. The purpose of this report is to recommend to the Council that it adopt the submission on the Affordable Housing: Enabling Territorial Authorities Bill which will be tabled at the Council meeting.

EXECUTIVE SUMMARY

2. Housing is a significant component in building strong communities, and in social and economic well-being generally. The Council has made commitments through its City Housing programme, and through the Urban Development Strategy, to improve and increase affordable housing options in Christchurch. However, the issue of affordable housing has grown to the point where decreasing levels of home ownership may become a permanent structural feature of New Zealand society. A well developed central government affordable housing policy response is needed to enable local government to effectively respond to this issue.
3. Affordable housing has been a topic which the Council has previously given its views on. In June last year the Council made a submission to the Commerce Select Committee Inquiry into Housing Affordability in New Zealand (and is still to appear in support of its submission before the Committee). The Inquiry covered a wide range of topics relating to affordable housing - this Bill only relates to one area covered by the Inquiry. Local Government New Zealand has made it clear that, in their submission on this Bill, they will be asking the Government to clarify its other initiatives to address affordable housing, since this Bill only addresses one possible tool for territorial authorities. It does not mention what steps, incentives or funds central government is prepared to provide to assist councils with affordable housing, other than making provision for Housing New Zealand to provide support for them (although the exact nature of and timeframe for this is not determined in the Bill).
4. The purpose of the Bill is to introduce a tool which Councils could use to require the provision of, or funding for, affordable housing as part of new residential and business developments. Such a tool has apparently been requested by some Councils. The Bill enables territorial authorities to use this tool, but does not require it.
5. The Bill also provides that, before a Council decides to use this tool, it must assess the level of affordable housing in its district, and develop an affordable housing policy.
6. Under the Bill, before implementing an affordable housing policy, a Council must:
 - Make a decision to undertake a housing needs assessment;
 - Undertake a housing needs assessment; and
 - Develop, in consultation with its community, an affordable housing policy that sets out:
 - The outcomes and objectives sought;
 - Criteria for determining developments to which it will apply;
 - Any actions required of a developer;
 - Any actions that the territorial authority may do to help the developer;
 - Eligibility criteria for allocation of the affordable housing;
 - How affordable housing is to be retained; and
 - The objection and appeals process.

7. Provision is made in the Bill for appeals to the Environment Court about Council's decisions in relation to the policy. The Bill also addresses the use of restrictive covenants that have the principal purpose of stopping the provision of affordable and social housing.
8. The proposed submission by the Council on the Bill notes that the Council generally supports the intent of the Bill, with the enabling approach and flexibility of the Bill being positive features. It needs, though, to be part of a wider social and economic response by central government to the issue of affordable housing. The proposed submission comments on a number of matters of concern and recommends several changes. The following is a summary of the main points of Council's submission:
 - There is, in places, a disassociation between the Bill's explanatory note and summary of the Bill with the provisions of the Bill itself.
 - The submission highlights that the CCC is a longstanding, and the second largest, social housing provider in the country.
 - None of the incentives proposed by the Bill are free from problems and some would be extremely difficult for the Council to provide.
 - The Bill assumes that territorial authorities have sufficient staff, time and financial resources to fund both the significant compliance costs of preparing, implementing and administering the Bill once enacted and the proposed financial and other incentives. It does not offer any assistance to territorial authorities except limited assistance in the form of best practice guidelines and regulations to be provided by Housing New Zealand Corporation and the Governor-General, at the latter's discretion and not within any specified timeframe. It seems that councils will be required to invent/reinvent the wheel if there is insufficient assistance/guidance provided by central government.
 - The provisions that seek to make certain restrictive covenants void (those that have the principal purpose of preventing affordable or social housing) are poorly worded and will be ineffectual.
 - The Bill does not appear to be justified in light of the significant compliance costs of preparing, implementing and administering it once enacted (for those Councils who do decide to use its enabling powers), relative to the apparent provision of affordable and social housing likely to result.
 - The Bill is poorly drafted in a number of clauses, including the interpretation section. It requires either the redrafting of existing provisions and/or the addition of new provisions in order to be effective.
 - The Bill promotes inequity by focussing on developers, over the community generally, and by favouring one developer over another.
 - The process for objections and appeals proposed by the Bill is inconsistent in comparison to other council policies, such as the Development Contributions Policy, and the way these are developed. Appeals are (somewhat oddly, given its field of expertise) to the Environment Court, rather than to the High Court via judicial review only. The provision for third party objections and appeals by adjoining landowners is also questionable.
 - The proposals in the Bill do not appear to prevent developers, at least in the short term, from building affordable housing in undesirable areas both in relation to distance from services/amenities or socially. The Bill appears to send a signal to developers to continue developing greenfield land, rather than inner city land, which will perpetuate urban sprawl, and exacerbate the adverse environmental, economic and social effects of it. This (among other things) is not factored into the costs/benefit analysis of the preferred option, i.e. the Bill.
9. The Select Committee has called for submissions on this Bill. These are due on 29 February 2008.

FINANCIAL IMPLICATIONS

10. There are no financial implications in making a submission on this Bill. If the Bill is passed Council can then consider whether to take any action under the legislation. Considerations at that time will include analysis of the financial implications of any decision.

Do the Recommendations of this Report Align with 2006-16 LTCCP budgets?

11. No effect on the budget.

LEGAL CONSIDERATIONS

12. The legal considerations in relation to making a submission on this Bill are outlined in the submission, including such things as badly drafted clauses of the Bill, and inadequate definitions.

Have you considered the legal implications of the issue under consideration?

13. No legal implications in making this submission.

ALIGNMENT WITH LTCCP AND ACTIVITY MANAGEMENT PLANS

14. In general, submitting on central government issues of importance to the Council aligns with the Council's "A Well Governed City" community outcome.

Do the recommendations of this report support a level of service or project in the 2006-16 LTCCP?

15. No.

ALIGNMENT WITH STRATEGIES

Do the recommendations align with the Council's strategies?

16. There is potential for alignment with the Strong Communities strategic direction, as the Bill once enacted will feed into the Urban Development Strategy, the Central City Revitalisation Strategy, and the proposed Housing Strategy.

CONSULTATION FULFILMENT

17. Consultation has been carried out internally within Council's units and has also taken place with the Council's new Housing Working Party, prior to the Council meeting, on the form of the submission.

STAFF RECOMMENDATION

It is recommended that the Council:

- (a) Adopt the submission (as separately tabled).
- (b) Decide whether the Council wishes to appear in support of the submission (if the Committee is to hear submissions), and if so, who will appear on behalf of the Council.