

LOCAL GOVERNMENT (COUNCIL HOUSING) AMENDMENT BILL

EXPLANATORY NOTE

IN recent years the housing policy of both central government and local government has been to sell publicly owned housing stock in an effort to divest the responsibility of providing housing for people on low or moderate incomes.

When it is only one house sold the impact on a community is not great. However, increasingly large blocks of residential housing, often over 500 properties, are being sold at the same time. This has a great impact on the community.

How easily this can be done is dependent on legislation.

Local government legislation, in particular, allows a council which has resolved to sell its land to do so without having to fulfil more than the prescribed notice requirements.

There is no duty on the council to examine the social impact of such a sale on the particular community either before or after the decision to sell is made.

Any consultation with affected tenants is generally undertaken after the decision to sell is made. This consultation is generally about relocation.

This bill is based on the premise that the supply of housing for people on low or moderate incomes is an integral part of the council's social responsibility. When deciding to sell off such housing a council must be aware, therefore, of the social impact its decision is likely to have.

Clause 2 defines a social impact study.

Clause 3 gives the purpose of the bill.

Clause 4: Subclauses (1) and (2) ensure that a council fulfils its social responsibility by imposing an obligation upon the council to get a social impact study done in every case where it proposes to sell more than 10 houses in any one community in any one year.

This social impact study must be undertaken and considered *before* the council resolves to sell or exchange those houses.

This obligation ensures a council is susceptible to judicial review of any decision to sell or exchange (i.e. did it get a social impact study done, did it take all aspects of the study into consideration and given the conclusion of the study was it a reasonable decision for the council to make?).

Having fulfilled the obligation to consider a social impact study, the council can sell the houses and use the proceeds for any purpose provided that the houses are not houses on land that was vested in the council for the purpose of urban renewal.

The history of council urban renewal land is that it was purchased by the council or granted to the council by the Crown for the purpose of residential housing.

To enable the council to purchase land for this purpose the council was provided with a special 3 percent interest loan or a "write down" grant for the cost of purchase.

A definition of urban renewal purpose has been included in *clause 2* of the bill to that effect.

Subclause (3) ensures that all proceeds from such land must be used for the same purpose.

This is in line with a restriction on proceeds from land sold that had been received by the council from endowment or trust already in the Local Government Act 1974.

The Act does, however, allow the Minister of Local Government to override this restriction to enable the council to use the proceeds for another purpose. The Minister is under no obligation to qualify his or her decision.

Subclause (4) ensures that the Minister must have regard to certain social impact considerations before enabling the council to use the proceeds for another purpose.

Sandra Lee

**LOCAL GOVERNMENT (COUNCIL HOUSING)
AMENDMENT**

ANALYSIS

Title
1. Short Title

2. Interpretation
3. Purpose
4. Sale or exchange of council land

A BILL INTITULED

An Act to amend the Local Government Act 1974 in order to amend the law relating to the sale or exchange of houses or community centres by a council

5 BE IT ENACTED by Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Local Government (Council Housing) Amendment Act 1997, and is part of the Local Government Act 1974 (“the principal Act”^{*}).

10 **2. Interpretation**—Section 224 of the principal Act is amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘House’ means house as defined by section 549:

15 “‘Social impact study’ means a process conducted by a council in which a proposal is examined for its possible effects on individuals, groups, and communities in relation to:

“(a) Social well being; and

“(b) Social security; and

“(c) Social development.

20 “‘Urban renewal purpose’ means the development of land for council housing:”.

^{*}Reprinted 1990 (1990, Vol. 25, p. 1)

3. Purpose—The purpose of this Act is to ensure—

- (a) That, where a council proposes to sell or exchange more than ten allotments of land upon which houses or community centres are situated, in any one ward in any calendar year, the council obtains a social impact study of such sale or exchange on the community and shall have regard to the study in any resolution to sell or exchange those houses or community centres; and 5
- (b) That, where a council sells houses and community centres on land that has been vested in the council for the purpose of urban renewal, the proceeds must be used for the same purpose unless the Minister, having regard to certain requirements, authorises the proceeds to be used for another purpose. 10 15

4. Sale or exchange of council land—(1) Section 230 (1) of the principal Act is amended by omitting the expression “(3)”, and substituting the expression “(2A)”.

(2) Section 230 of the principal Act is amended by inserting, after **subsection (2)**, the following new subsection: 20

“(2A) A social impact study must be undertaken by the council in every case where there is a proposed resolution to sell or exchange more than 10 houses and community centres, in any ward in any calendar year, not less than 14 days before the date of the meeting at which the resolution is to be submitted, and must be considered by the council in making any decision to accept or reject the proposed resolution to sell or exchange.” 25

(3) Section 230 of the principal Act is amended by inserting, after subsection (4), the following new subsection: 30

“(4A) Where any land so sold or exchanged was land acquired by, transferred to, or granted to the council for an urban renewal purpose, all money received by the council upon the sale or exchange must as soon as practicable be applied in or towards the purchase of other land to be held for the same purpose as the land sold or exchanged or in accordance with **subsection (5)**.” 35

(4) Section 230 of the principal Act is hereby amended by inserting, after subsection (5), the following new subsection:

“(5A) In deciding whether to grant consent under subsection (5), the Minister shall have regard to the following considerations: 40

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“(a) The impacts and effects, both intended and unintended,
that are likely to result from a new purpose
replacing the original purpose, including—

5 “(i) The detrimental impact, both social and
economic on the community; and

 “(ii) The beneficial impact, both social and
economic, on the community; and

10 “(b) To what extent the new purpose complements,
duplicates, overlaps, or works at cross-purposes with
the original urban renewal purpose.”