

House of Representatives
Supplementary Order Paper

Thursday, 29 May 2014

Local Government Act 2002 Amendment Bill
(No 3)

Proposed amendments

Brendan Horan, in Committee, to move the following amendments:

Clause 36

In *clause 36 (1)*, replace *new section 106(2B) and (2C)* (page 49, line 34 to page 50, line 25) with:

- (2B) Subject to **subsection (2C)**, a development contribution provided for in a development contributions policy may be adjusted for inflation without consultation, formality, or a review of the development contributions policy in accordance with regulations made under section 259.
- (2C) An inflation adjustment must not be made in relation to the proportion of the total costs of capital expenditure to which the development contribution will be applied that relates to interest and other financing costs.

Clause 53

Replace *clause 53, new section 199D(a) and (b)* (page 62, lines 13 to 24) with:

- (a) failed to properly take into account features of the objector's development that, on their own and cumulatively with those of other developments, would substantially reduce the impact of the development on requirements for community facilities in the territorial authority's district or parts of that district; or
- (b) required a development contribution for community facilities not required by, or related to, the objector's development, on its own and cumulatively with other developments; or

Clause 65

Before *clause 65*, new section 259(1)(e) (page 76, after line 2), insert:

- (de) allowing the adjustment for inflation of development contributions as provided for in section 106:

Schedule 1

After *Schedule 1*, new *Schedule 1AA*, *clause 5B* (page 82, after line 21), insert:

5C Transitional provision regarding development contributions already collected for certain work

If a territorial authority is unable to or does not proceed with a community infrastructure work or programme because, as a result of the amendments made by the Local Government Act 2002 Amendment Act (**No 3**) 2014, development contributions can no longer be collected for that work or programme, the territorial authority may retain the development contributions already collected in relation to that work or programme, but contributions retained must be used in a manner which is consistent with the definition of community infrastructure as now defined in this Act or any work or programme to which **clause 5B** applies.

Explanatory note

This Supplementary Order Paper will make three specific technical changes for the better operation of the Local Government Act 2002 as being amended.

The change to *clause 36* of the Bill will amend Producer Price Index provisions to allow Development Contribution charges to be kept constant in real terms over time. There is a consequential change to *clause 65* to allow necessary regulation making powers.

The change to *clause 53* will ensure that cumulative effects of multiple developments on infrastructure needs must be considered, which was the intention of the change to the drafting of these clauses.

The change to *new Schedule 1AA* covers situations where development contributions have been taken for future projects that fall outside the definition of community infrastructure and may never be built. It allows councils to retain these funds as long as they use them for a similar purpose. This avoids costly refund processes solely as the result of the effects of these reforms. There is some uncertainty whether sections 204 and 209 of the Local Government Act 2002 would otherwise trump other provisions.
