

Local Government (Auckland Council) Bill

Government Bill

As reported from the Auckland Governance
Legislation Committee

Commentary

Recommendation

The Auckland Governance Legislation Committee has examined the Local Government (Auckland Council) Bill and recommends that it be passed by majority with the amendments shown.

Introduction

The Local Government (Auckland Council) Bill provides for the governance structure of the Auckland Council. This includes determining the membership of the Auckland Council, the roles and functions of the mayor and local boards, the powers and functions of the Local Government Commission in establishing the number of local boards and the boundaries of the city and the region (including organising the partition of the Franklin District between Auckland City and Waikato District and dividing the existing Rodney District between the Auckland Council and Kaipara districts), and the process of integrating Auckland's water resources to be undertaken by Watercare Services Limited.

The issue of Auckland governance reform has been contended for more than 100 years and has attracted vigorous debate and discussion for at least 50 years. In 2006, some civic leaders in the Auckland region endeavoured to jointly address outstanding issues relating to local government in the region; the result was agreement in Auckland (and with Government) regarding mechanisms for collaboration between the councils. Following this, the previous Government established the Royal Commission into Auckland Governance in 2007. The Royal Commission was asked to examine the local government arrangements in the Auckland region, formulate recommendations for a system of local government for the region for the next 50 to 100 years, and ensure that local government in the region took into account Auckland's projected growth and ethnic diversity. The commission reported back to the Governor-General in early 2009 with numerous recommendations, a number of which the current Government have adopted and formulated into legislation. This is the second of three bills that will give effect to the Government's decisions on the future governance of Auckland.

The intent of these reforms is to reduce local government inefficiencies and weak, fragmented regional government in greater Auckland, to create a prosperous, world-class city to benefit Auckland and ultimately New Zealand. The amendments we propose to this bill seek to achieve these goals while allowing the diverse and vibrant communities in the region to maintain their unique identities.

This commentary addresses issues and recommendations thematically, rather than in order of the clauses we seek to amend.

Local boards

Clauses 10 to 17 of the bill set out the roles, functions, and status of local boards. These boards would be a new form of governance body, being neither local authorities nor community boards. This is specified in new clause 12A. The unitary authority status of the Auckland Council means that it would have all of the powers of both a regional council and a local authority. The governing body of the Auckland Council (the mayor and councillors) is envisaged as the first-tier decision-making body of the unitary authority, while the local boards would be a second, complementary tier of decision-making bodies. We are aware of much concern that the Auckland local government

reforms could result in the loss of effective local representation, and that local boards might lack sufficient powers, status, and funding to deliver effective local governance under the bill as introduced.

We believe that empowered, well-resourced local boards will allow local voices to be heard sufficiently in decision-making processes. We propose amendments to clauses 10–17, and the insertion of new clauses 13A to 13O, and 17A to 17D in Part 2 of the bill, to ensure that local boards would be sufficiently empowered to adequately represent, advocate for, and make decisions on behalf of their communities. Our amendments seek to ensure that decision-making by the two tiers of the Auckland Council would be allocated according to clear principles, and that the governing body of the Council and the local boards would sit alongside each other and have distinct roles, rather than operate in a hierarchical relationship.

Decision-making, funding, and accountability of local boards

We recommend that new clauses 13A to 13O and 17A to 17D be inserted to clarify the distinct responsibilities and powers of the governing body of the Council and the local boards. These clauses describe the governance model and then set out the local boards' decision-making powers, budgetary arrangements, accountability, and bylaw-proposing powers.

We recommend that local boards be empowered to make decisions on the level and nature of the services and facilities needed in the local area, and to ensure that they reflect and enhance the particular character and preferences of their communities. Local boards should also be able to provide input into Auckland Council strategies, policies, plans, and bylaws; propose and consult on bylaws specific to their local areas; and undertake any other responsibilities delegated by the Auckland Council.

We consider it important that the respective decision-making responsibilities of the governing body and the local boards be clear. We therefore recommend that the bill specify that decision-making in respect of the regulatory functions, financial and asset management, and staff and resources of the Auckland Council are the responsibility of the governing body. However, we recommend that the bill makes it clear that decisions about the nature and level of the services provided, and other activities of the Auckland Council, should

be made separately by each local board, except where the activity is such that decision-making on an Auckland-wide basis will better promote the well-being of communities across Auckland because the impact of decisions will extend beyond single local board areas; or effective decision-making will require alignment or integration with other decisions that are the responsibility of the governing body; or the benefits of a consistent or coordinated approach across Auckland will outweigh the benefits of reflecting the diverse needs and preferences of local board areas. We recommend amendment of the bill to state this principle clearly, in order to allow local boards to take responsibility for and make decisions effectively on matters directly affecting their communities. We consider that the allocation of decision-making responsibilities in accordance with this principle must be reflected in the Auckland Council's long-term council community plan (LTCCP).

A number of submissions included lists of local authority functions proposed for allocation to local boards in legislation. While it would be possible to list all of the regulatory activities of the Auckland Council, we note that the non-regulatory functions of local government activities are generally not specified in legislation.

We believe that specifying a list of functions in this bill would not be practicable or a good fit with the broad enabling framework for local government under the Local Government Act 2002. The range of activities undertaken by each local board will be different and likely to change over time. Including a prescriptive list in legislation will limit that flexibility. However, we believe that the nature of the functions the local boards ought to have responsibility for should include the range of activities that communities expect to be delivered by local government, such as libraries, swimming pools, community facilities, supporting social and economic development, and making decisions that improve the character and amenity value of their local community.

As such, we expect the local activities that will be the subject of local board plans would be likely to include the operation and development of local facilities, including sports and recreation centres, swimming pools, and parks; the operation of community services such as libraries, community centres and halls; supporting local community events; administration of funding to local community groups and youth centres; community safety, graffiti prevention, and other social

services; promotion of local economic development activities such as Business Improvement Districts, and improving streetscapes and signage; developing and proposing local bylaws to reflect local community concerns and preferences; and undertaking effective community engagement and seeking community views on both local board activities and the regional and regulatory functions of the governing body.

The Auckland Transition Agency will be responsible for allocating the local boards' initial functions and preparing a budget commensurate with those functions. In doing this, the agency will need to follow the requirements of the Local Government (Auckland Council) Act 2009. We consider it imperative that functions currently undertaken by the existing territorial authorities that will in future become the responsibility of local boards continue to be delivered.

The specification of local boards' functions by the agency will need to be for the period from 1 November 2010 to at least 30 June 2011. Thereafter, if the governing body wishes to reconsider undertaking a function, it would need to apply the criteria currently in new clause 13D of this bill.

We also consider that the governing body of the Auckland Council should be required to consider views expressed by local boards when it is preparing strategies, policies, plans, or bylaws, to ensure local input on regional issues. We propose that, in order for the local boards to formulate a position to express to the governing body about such matters, local boards be required to consider and reflect the views and preferences of their communities, and be allowed to use the special consultative procedure set out in section 83 of the Local Government Act 2002.

We recommend that local boards be able to propose their own bylaws, which should be approved by the governing body of the Council. We therefore recommend a requirement that bylaws proposed by a local board be approved only if they apply to the local board area (or the relevant local board areas in the case of joint board recommendations); are not inconsistent with regional strategies, policies, or plans; are practicable to implement and enforce; and are not inconsistent with any statutory requirement (including procedural obligations in the Local Government Act 2002).

We also consider that local boards should have control of the budgets required for them to function appropriately and effectively in their

communities. We recommend that the governing body of the Council, in consultation with local boards, develop a funding formula for local board activities and allocate funding for use by individual boards according to this formula. We therefore recommend that the funding formula developed for local boards be required to take into account any factors that would significantly affect the nature and level of services needed in a local board area. Such factors would include demographic information about the local board area (for example, population size and age distribution); the local board area's assets, facilities, and services; the rates revenue derived from the board area; and the area's socio-economic status. The funding allocated for local boards must also be sufficient to meet the costs of agreed levels of service, facilities, other activities, and the boards' administrative and operational costs.

In order to understand thoroughly the level and nature of the local services and facilities needed in the area, we consider that local boards must consult their communities appropriately and effectively. To this end, we recommend requiring each local board to develop a triennial local board plan as soon as possible after their election, using the special consultative procedure in the Local Government Act 2002. We consider that this local board plan must reflect the character and preferences of the local communities; be consistent with the Council's strategies, policies, plans, and bylaws; and either be within the local board's baseline budget or include proposals for any additional funding mechanisms. The plan should specify the budget to be allocated by the Council; the nature, mix, and costs of the services, facilities, and initiatives proposed by the board; any additional funding needed to meet the costs of proposed services, should they exceed the budget proposed by the Council; and proposed funding mechanisms to meet any additional funding needs (for example, targeted rates for all or part of the local board area).

Finally, we recommend that local boards and the governing body of the Council enter into local board agreements to specify the level of service to be provided within the local board area (including variations to accommodate local priorities and preferences); the extent to which Council assets and facilities in the local board area will be operated and funded as local assets; the funding arrangements for local boards; and dispute resolution processes. We also recommend specifying that local boards will be responsible for reporting to the

governing body of the Council and the community on the effectiveness and quality of services delivered under these agreements. We believe that this would allow a transparent and effective process for holding both the local boards and the governing body of the Auckland Council accountable to their communities.

In order to further clarify responsibilities of the Auckland Council in relation to local boards, we further recommend that the chief executive of the Council be responsible to it for the implementation of local boards' decisions and agreements, the provision of advice to each board and its members, and the provision of administrative and other facilities that are necessary for each local board to perform their functions and duties.

Other amendments to local board provisions

We recommend a further amendment to clause 10 to describe more accurately the purpose of local boards, and their focus on matters that are very clearly local rather than regional. We recommend that clause 10 make it clear that the purpose of local boards includes the promotion of social, economic, environmental, and cultural wellbeing in their local communities, in the present and the future. This is consistent with, and linked to, the purpose of local government in the Local Government Act 2002.

As a consequence of the recommended amendments to the decision-making, funding, and accountability of local boards outlined above, we recommend omitting existing paragraphs 10(1)(b) and (c), and clauses 11, 14, 15, and 16. We also recommend the deletion of subclauses 10(2)(a) to (c), referring to the general role of local boards, as the provisions of the new clauses discussed above remove the need for these subclauses. For the same reason, we also recommend deleting clause 17 from the bill, which deals with expenses of local boards. Additionally, we recommend amending clause 13 to remove the reference to “funding arrangements”—as the provisions of the new clauses propose specifying that local boards and the Council must reach agreement on funding arrangements, this referring to funding arrangements would be unnecessary.

In addition, we recommend a small amendment to clause 12, which concerns membership of local boards. We consider that having ward councillors who are also members of local boards and local board

members who are also Auckland councillors, as proposed by some submitters, would be likely to obscure the line between the clearly prescribed and differing roles of councillors and board members, and their accountability as elected members of either authority. We therefore recommend amending clause 12 to provide for the application of sections 88A to 88F of the Local Electoral Act 2001, so that where a person was elected to both the Auckland Council and a local board, they would have to vacate their position on the local board.

Lastly, we recommend inserting new clause 17B to make it clear that local boards and the Council would be bound by the same code of conduct. The bill as introduced does not require local boards to adopt a code of conduct. We consider that this amendment is necessary because the powers and responsibilities of the boards would be significantly increased under the recommended new clauses.

Remuneration of local board members

While we recognise that we cannot set the remuneration levels of local board members, we urge the Remuneration Authority to give serious consideration to this issue. We consider that the remuneration provided to local board members must be sufficient to attract good-quality candidates and reflect adequately what the job involves.

Auckland Council

The majority of us consider that all 20 councillors of the governing body of the Auckland Council should be elected to represent wards, at least for the initial 2010 election under the new governance structure. While the rationale for including some at-large councillors was to provide more ethnically diverse candidates and Auckland-wide perspectives on the Council, and increase the probability of majority support for the elected-at-large mayor, the majority of us note significant opposition to the election of councillors at large, and believe that retaining the eight councillors at large could reduce voter participation in 2010. Although the majority of us acknowledge the arguments for including at-large councillors in the Council, the majority of us also believe that replacing them with more ward councillors would provide for better representation of the communities of interest in Auckland. The ward structure and membership for the 2010 elections would be determined by the Local Government Commis-

sion under Part 3 of the bill; the majority of us therefore recommend deleting clause 8(3), which provides for the at-large councillors, and amending clause 19, as detailed subsequently.

Māori representation

A large number of submitters recommended ensuring Māori had representation in some form under the new governance structure. Many argued that Māori representation should be guaranteed as of right because of the principles of the Treaty of Waitangi and the special status of tangata whenua, or in order to remain consistent with the provisions of the Local Government Act 2002, which provide for Māori input into decision-making at the local level. While there was substantial support for Māori representation on the Council by way of reserved seats, there was no consensus on whether this representation should be specifically for mana whenua,¹ or for tangata whenua as a whole, and whether the seats should be reserved on the Auckland Council or local boards. There was some support for representation in other forms, such as an advisory body, committee, or forum.

While we acknowledge that some form of Māori representation, advocacy, or partnership would be valuable within the Auckland governance structure, the majority of us believe that it is up to the people of greater Auckland to decide what shape this representation should take, and whether representation should be for tangata whenua, mana whenua, or both. Such representation could, for example, be provided in the committee membership of the Auckland Council. The majority of us therefore urge the Auckland Council to carefully consider establishing Māori representation should there be community support for this move. The majority of us note that current provisions in the Local Electoral Act 2001 provide a mechanism by which the Auckland Council could seek to provide for Māori representation.

However, the majority of us believe that the question of whether the existing legislation provides adequate opportunities for Māori representation in local government is an issue of national significance, extending beyond Auckland. Resolving this issue should therefore

¹ Customary authority of a tribal area derived through tupuna whakapapa, or ancestors, of whānau, hapū, and iwi.

be considered in that context rather than through this piece of legislation.

Local body elections and voting system

We heard mixed opinions on the appropriate voting system for the council and local board elections. Single Transferable Vote (STV) for the mayoral election in particular was most popular among submitters, with less support for a combination, for example, of STV mayoral elections with First Past the Post (FPP) local board elections. However, a lesser number of submitters also recommended using FPP for all local elections. Many of those in support of STV argued that it is more democratic than other voting methods, results in greater voter participation over time, and allows for greater diversity of candidates; while others argued that their experience of STV was that it did not bring about greater diversity or voter participation, and is confusing to voters.

While we recognise the persuasive arguments in favour of STV, the majority of us consider that retaining the FPP system of voting at both the council and local board level would be preferable for the first elections under the new governance structure. The majority of us are of the view that the disadvantages of STV, particularly its perceived complexity (and therefore its propensity to discourage voting), outweigh the disadvantages of FPP for the 2010 elections. Given that in 2010 Aucklanders will be electing people to newly established positions, the majority of us consider that the unfamiliarity and perceived complexity of STV could pose a risk to the success of the elections. The majority of us therefore recommend the inclusion of new clause 23A(3)(a), to amend the Local Government (Tamaki Makaurau Reorganisation) Act 2009 provisions relating to the 2010 elections to provide for FPP to be used as the system of voting for the first elections for mayor, councillors, and local board members under the new structure.

We heard arguments for “fair spending” limits on mayoral campaigns on the grounds of equity for candidates. We agree that a cap on campaign spending would allow a larger, possibly more diverse, field of candidates, and have been advised that this issue will be addressed in the third Auckland governance reform bill, which we understand is to be introduced to the House later this year.

Mayoral powers and functions

The majority of us consider that the current provisions of clause 9 are generally sound, in that they would facilitate strong leadership but would not enable the mayor to make significant and substantive decisions without agreement from the majority of the Council. The mayor should be a strong leader, and the majority of us believe the functions and powers of this role should make this possible. The mayor's powers should therefore allow him or her to effectively promote, and provide leadership towards, his or her vision for Auckland.

We recommend a few amendments to these powers in clause 9, to allow the mayor to undertake the role more effectively. Firstly, the majority of us recommend that the mayor be empowered to decide the committee structure of the Council, and to appoint the chairpersons of committees and the deputy mayor, notwithstanding the Council establishing, or disestablishing, additional committees by majority vote. The majority of us consider that the power to appoint the committee chairpersons would have limited value if the Council as a whole then determined the structure of these committees (or perhaps whether the committees existed at all). In addition, to strengthen this function, the majority of us recommend that the mayor be empowered to establish mechanisms for effective engagement with certain groups and communities across the region, such as youth and other age-groups, ethnic communities and geographic communities, and people with disabilities, as well as the public generally. The majority of us consider that this would improve public engagement with the Council, while allowing flexibility in the way engagement is brought about.

We also recommend that clause 9 be amended to clarify that the mayor's role is to lead the development of plans, policies, and budgets for consideration by the Council. This would avoid any implication that this role should be undertaken in isolation from the Council and its resources.

Lastly, we recommend that a minimum budget for the office of the mayor be set at 0.2 percent of the Council's total budgeted operating expenditure, thus allowing approximately \$2–3 million to employ independent advisers and contracted specialist advice when required by the mayor. We recommend this amendment because we have concerns that should the mayoral office budget be dependent on provision by the Council as a whole, the power to establish a budget

for the mayor's office could be ineffective. We are concerned about striking a balance between the power of the mayor and the power of the chief executive of the Council, and we believe that increasing mayoral powers, and allowing the mayor to construct his or her own staffed office, would help to redress this balance.

Local Government Commission powers

Clauses 18 to 20 and the Schedule of the bill assign certain powers to the Local Government Commission in relation to determining city, ward, and local board boundaries.

Council boundaries

The bill would empower the commission to undertake consultation before determining the city's boundaries, but does not specify a process or require any particular person to be consulted. We recognise that the timeframe and scale of the work that must be done does not allow a full consultation process to be undertaken. However, the possible consequences for some residents if certain areas in the region are included in or excluded from the council boundaries are significant, and we are aware of strong opposition to some areas being included in or excluded from the city. We therefore urge the commission to carry out a comprehensive consultation process with Aucklanders before setting the city and local board boundaries. We are advised that the commission intends to provide as much opportunity as it can for public input in this area, and may seek written submissions as well as facilitate meetings with key stakeholders.

The majority of us recommend amending clause 18 of the bill to direct the commission to determine that the northern boundary of Auckland city should be generally based on a line between the mouths of the Puhoi and Makarau rivers, dividing the current Rodney district in two. The majority of us believe that the rural northern area of Rodney should then become part of the Kaipara District. While the southern parts of Rodney are undoubtedly urban or at least partly urban, the northern areas are not, and the large amount of land in that area would probably incur a disproportionate amount of work for the Council when it should be focused primarily on urban issues. However, we consider that the Auckland regional parks in the northern parts of Rodney should continue to be owned and managed by

the Auckland Council. The majority of us consequently recommend that Part 1 of the Schedule of the bill be amended to provide for the apportionment of Rodney District between Auckland and Kaipara Districts, and to reflect the transfer of part of the Auckland region to the Northland region. We recommend that the Northland Regional Council and the Auckland Council review arrangements for the future management of the Kaipara Harbour and catchment.

The majority of us consider that the southern boundary of the city should remain as it is in the bill as introduced. The northern parts of Franklin have clear commuter and public transport links with urban Auckland, are already within the Auckland Region, and are part of the Manukau Harbour catchment rather than the Waikato River catchment. We note also that while the Mangatangi and Mangatawhiri catchments would become part of the Waikato region, they would still be owned and managed by the Auckland Council. The majority of us therefore believe that there is no need to amend the provisions governing the partition of Franklin, though we urge the commission to consider carefully retaining all of Pukekohe and Waiuku as part of the Auckland region, rather than splitting them each in two.

However, because of the distinct nature and interests of the areas of Rodney and Franklin districts that are to become part of Auckland, we recommend amending clause 19 to require the commission to create a single-member ward for each of the two areas, roughly based on those parts of each district that will become part of Auckland. We note that the southern ward may also take in parts of rural Manukau, if these areas are deemed to share a community of interest with the relevant part of Franklin.

Concern was also raised by submitters about the future governance of the Kaiāua area in Franklin, with many submitters stating a preference for it to become part of Hauraki District, rather than Waikato District as proposed in the bill. In this case, the majority of us recommend that the commission be empowered to determine the best option for the future governance of the coastal area around Kaiāua. The majority of us recommend this amendment to clause 18 and Part 2 of the Schedule because, unlike other areas of the region, this area of Franklin and Waikato is not especially significant for the future governance of Auckland.

Ward boundaries

The majority of us have recommended that there be no councillors elected at large in the first elections under the new governance structure. Consequently, the majority of us recommend that clause 19 be amended to reflect that all 20 members of the Auckland Council are to be elected from wards, rather than only 12. As we noted earlier, the majority of us believe the northern and southern rural areas should be guaranteed representation through one single-member ward each, based on the areas of Rodney and Franklin.

Regarding the other 18 councillors, the majority of us consider that the commission should be authorised and encouraged to establish multi-member wards where this would provide for a better fit with communities of interest. Wards represented by more than one councillor would, the majority of us believe, provide more opportunity for minority group representation, and would be likely to lead to a council that was closer politically to the result of the mayoral election. Therefore, the majority of us recommend amending clause 19 to provide that there should be one northern and one southern rural (single-member) ward, and to allow the commission scope to determine the names, boundaries, and representation (by single or multiple members) of the wards that would elect the other 18 councillors.

Number and boundaries of local boards

The majority of us do not consider that there is a need to change the number of local boards from the 20–30 range proposed in the bill.

We consider the boundaries of local boards should be determined by communities of interest, which we believe would more fairly represent communities' interests than boundary decisions based solely on population or geography. We therefore consider that the guarantee of separate local boards for Great Barrier and Waiheke Islands should be retained. The Local Government Commission is expected to consult widely on local board boundaries and on the city's northern and southern boundaries to ensure that communities of interest are reflected in its decisions.

Water integration

Clauses 23 and 24 set out the Auckland Transition Agency's functions in relation to Watercare's new role as the sole supplier of water

and wastewater services for the region. We consider that the integration of water and wastewater services in Auckland is likely to provide efficiency gains and boost effectiveness. We note, however, that the scope of the integration process in respect of stand-alone rural schemes not currently connected to the Auckland water networks is unclear. We therefore recommend an amendment to clause 24 to clarify the scope of the integration work as it relates to these schemes.

We recommend that the Auckland Council, in consultation with the local boards concerned, be permitted to decide whether there should be individual water and wastewater service agreements with local boards, which would not be possible if the management of these schemes were fully integrated with that of the networks. As an interim measure, we recommend amendment of clause 24 to require Watercare to produce a plan for the interim management of stand-alone water and wastewater schemes from 1 November 2010, and detailed proposals for the long-term management and operation of these schemes for the consideration of the Auckland Council and local boards.

We also recommend that clause 24 be amended to clarify that the integration of water and wastewater services by Watercare would not include stormwater drainage services. We consider that the implications for transport infrastructure and land use, and the environmental effects of integrating stormwater drainage require a broad perspective by a body that is accountable for decision-making in this area.

We are aware of many issues and concerns about water pricing mechanisms, governance arrangements, and the regulatory framework for the operation of Watercare; these issues will be dealt with by the third bill relating to Auckland governance issues later this year.

Other council assets

We note that all council assets, such as museums and libraries, will come under the control of the new Auckland Council. We note the concern of submitters that some of these assets may be privatised, or removed from their communities of origin, or that existing debts from particular city councils would end up being borne by ratepayers across the whole region.

While these matters are outside of the scope of this bill, the majority of us understand that the third bill relating to Auckland governance

reform addresses the transition period and transfer of assets. These and related issues will undoubtedly be discussed in depth during that process. However, we are advised that the controls on local authorities' disposal of assets in the Local Government Act 2002 would apply to the Auckland Council.

Other amendments

We recommend minor amendments to clauses 3(a), 7, and 22, and the title of Part 4, to address incorrect references to current legislation. We recommend that references to the Local Government (Auckland Reorganisation) Act 2009 be amended to refer to the correct name of the legislation, the Local Government (Tamaki Makaurau Reorganisation) Act 2009.

We also recommend amendments to subclauses 4, 5 and 6 of clause 20. These subclauses refer only to the determination of the "southern boundary" of Auckland; however in the light of our recommendation regarding the division of Rodney District, these provisions require amendment so as to not exclude the northern boundary of the city. We therefore recommend that the words "in relation to the southern boundary of Auckland" in each case be omitted.

Regulation-making powers

We sought the advice of the Regulations Review Committee on the powers contained in clause 20 of the bill. This clause provides for Orders in Council to give effect to determinations made under clauses 18 and 19, and is based closely on similar general provisions in the Local Government Act 2002.

In response, the committee raised some concerns about the extensive powers prescribed in clauses 18 and 19. While we acknowledge these concerns, we are satisfied that the wide discretionary powers given to the Local Government Commission in clauses 18 and 19 are sufficiently constrained by the detail of the bill, despite the opt-out provisions they contain. We are also satisfied that there are sufficient controls on the powers of the Secretary for Local Government in clause 20(3), and appropriate limitations on the power of the Local Government Commission to amend primary legislation in clause 20(4), and that retaining clause 20(7) is justifiable and consistent with the

approach taken in the past and reflected in the equivalent general provisions in the Local Government Act 2002.

Other issues

Staff transition

We are particularly concerned about the effect of restructuring on current council staff across the region, especially in the difficult economic circumstances in which the governance reforms are taking place, and we acknowledge that it is an uncertain and stressful time for many employees. The majority of us are aware that the next piece of legislation dealing with Auckland governance addresses transition issues, including staffing and employment issues; however at this stage we urge the Auckland Transition Agency to manage this process so as to affect as few employees as possible, and to retain as much institutional knowledge within the councils as practicable. We hope to see a fair and transparent restructuring process established, and mechanisms established to help people who lose their current roles to promptly find appropriate employment elsewhere.

Civil defence arrangements

The Auckland Transition Agency is responsible for the final structure of civil defence functions for the new Auckland Council, and these specified roles and responsibilities should be in accordance with the Civil Defence Emergency Management Act 2002. While the general arrangements for the transition to the new governance structure will be dealt with in more detail in the next bill, we consider it important to note at this stage of the process that civil defence arrangements for the Auckland region during that time should continue to operate in their present form, as set out in the aforementioned Act. We hope that establishing a single unitary authority for Auckland will result in a more effective delivery of civil defence functions in the region in the future.

Social issues

We strongly believe that the new Auckland Council has a fundamental responsibility to effectively address social issues across the region. We note that in May 2009 the Government announced the es-

establishment of a social policy forum for Auckland, the members of which will include the new mayor, the Minister for Social Development and Employment, council committee chairs, and some representatives from local boards. The forum aims to improve the alignment between central and local government action on social issues, and will work to determine the social priorities of the region and undertake joint projects to improve the social wellbeing of Aucklanders.

A number of submitters raised the problematic nature of dealing with social issues in Auckland when there are so many complex and diverse social issues arising in various parts of the region. While the majority of us acknowledge that social concerns in areas such as Papakura are often different from those in, for example, Manukau or Waiheke Island, the majority of us trust that the social policy forum will recognise this and work effectively with the representatives of local boards to resolve particular issues in all of Auckland's diverse communities, as well as the issues that affect every community. We hope that the Council and the social policy forum will consider the needs of the elderly, children, and young people, people with disabilities, and vulnerable and socially disadvantaged communities throughout the region. Furthermore, the majority of us consider that the amendments we have suggested to the functions and powers of local boards will go some way to recognising and addressing social issues across Auckland.

Future use of city council facilities

During our submission hearings in Manukau, the majority of submitters raised concerns that their entitlement to freely access libraries and, particularly, swimming pools in the city would come to an end when the city's amalgamation with the region takes place. A large number of submitters argued powerfully that this free access enriched their own and their children's lives, and that without it many people, particularly children and older people, would not be able to afford to visit the facilities, especially the swimming pools. We urge the relevant local boards to give serious consideration to continuing this initiative.

Council engagement with communities

We were interested to learn that a number of submitters consider that some local bodies in greater Auckland are directly and actively involved with the diverse range of communities within their areas, while some others do not engage so effectively. We also note that the Royal Commission concluded that generally community engagement by current city councils was poor. While we recognise that engagement is a policy matter for the Council to determine, we urge the Auckland Council to engage with the region's communities effectively and meaningfully. We suggest that advisers or advisory committees or bodies could be appointed to work alongside the Council, particularly for youth, Māori and other ethnic communities, such as Pacific and Asian communities, environmental groups, and people with disabilities. We believe strong advisory bodies are needed to improve participation by these groups, and to ensure that their voices are heard on issues affecting them.

The Royal Commission noted that Auckland has a younger population than the rest of New Zealand, with a high number of young Māori and Pacific youth. We note that 37 percent of Auckland's population is under 25 years of age with a particularly high population of young workers. Some submitters advocated greater youth representation. We believe that there are many youth who feel disengaged with their communities and the political process. We urge the new Auckland Council to develop policies and structures that will better engage and meet the needs of young people across Auckland. These policies should take into account how to best communicate with young people by better utilising internet technology. We support the establishment of representative youth structures and policies that better support young people.

In addition, we recommend that the Auckland Council and local boards work in partnership to ensure consistency in disability initiatives across the region. We heard many compelling submissions from a number of disability associations and advocates, including the Auckland branch of the Association of Blind Citizens of New Zealand, Auckland Disability Law, and CCS Disability Action, and we urge the new Council to ensure that the needs and concerns of Auckland's diverse disabled communities do not get lost in the new structure. We note, however, that the amendments we have

suggested to empower local boards should help improve Council and board engagement with communities.

We also wish to acknowledge the enormous number of community and advocacy groups across the Auckland region working extremely hard for their communities every day. We were highly impressed with each of the groups we heard during the submission process, and it is imperative that the voices and work of these groups continue to grow and flourish under the new governance structure. Such groups will play a significant role in the success of the Auckland governance reforms, and should retain the ability to achieve positive outcomes for Aucklanders.

New Zealand Labour Party minority view

Introduction

The need to reform Auckland's governance structures is obvious; the many problems that beleaguer the region are universally discussed and widely agreed. That in part was why the previous Labour Government established the Royal Commission on Auckland Governance. However, as much as this process was about resolving the governance stalemate and formulating a response to the myriad of problems, it was more importantly about ensuring Auckland's future as an internationally competitive city and region.

If New Zealand is to grow and prosper, then Auckland's growth and prosperity is central. As the Royal Commission points out:

Auckland is New Zealand's only city of scale and is New Zealand's main gateway to the world. The region is now home to more than a third of the population and is forecast to have a population of two million people by 2050. Because of its scale, Auckland's success and New Zealand's success go hand in hand. As a large, outward-looking city, Auckland can and should contribute more to national prosperity and productivity than it does now.

It is this need for Auckland to succeed and its social, cultural, and economic centrality to New Zealand that lends this bill its significance. This bill is also about ensuring a durable solution; a structure that works for Aucklanders; a structure that preserves local control over local issues while allowing coordinated planning at the regional level is paramount. To that end Labour has always agreed on the importance of a unitary authority—one council, one mayor, one plan.

However it is both the manner in which the Government has carried out its reform agenda and significant portions of the substantive agenda itself that generate our concern.

Process concerns

There can be no doubting that the issues about Auckland's future governance are complex. The Royal Commission conducted a careful and thorough investigation, receiving 3,500 submissions over 18 months. In less than two weeks the Government produced its plan, containing some important deviations from the recommendations. The public were denied an opportunity to comment on both the Royal Commission's final report and the Government's proposal in its entirety.

The legislative process has been similarly rushed, disjunctive and inadequate. That the Local Government (Tamaki Makaurau Reorganisation) Act was passed under urgency without allowing the public to comment on key aspects of the structure was disappointing.

Similarly, the removal through the Local Government (Tamaki Makaurau Reorganisation) Act of Aucklanders' right to a referendum was concerning. These reforms amount to a fundamental constitutional change to our system of government, in a territory that is home to one-third of the nation's population. The Auckland public are entitled to a say on these critical reforms.

Further, that important detail will only be passed after the broad structure is put in place denies the public the ability to comment on the structure in its entirety. Potential structural problems may be more difficult to fix if only identified later in the detailed bill. Dealing with this bill through a compressed select committee process further compounds Labour's disappointment.

Broadly, the brief policy development period and legislative process have not been conducive to getting this bill right.

Areas of agreement

As mentioned above, Labour agrees that a unitary authority model is the most appropriate—one council, one mayor, one plan.

We also welcome changes to the powers of the local boards that will enable them to

- fund community initiatives and promote social cohesion at a local level
- make decisions on local services and place-shaping that reflect character and preferences of local community:
 - prioritising local services (parks and reserves, pools)
 - prioritising funding for amenity values (trees, local street furniture)
 - determining how services are provided (e.g. charging policy for pools)
 - determining the level of support and funding for social, environmental and cultural initiatives
- provide input into regional decisions e.g. LTCCPs, district plans, regional transport strategies, dog control, and gambling licensing.

Ensuring that the local boards are able to address local concerns has been an ongoing concern for Labour.

Labour welcomes the change that ensures all councillors will be elected from wards. Aucklanders have been overwhelmingly of the view that at-large councillors would not have been sufficiently accountable, and this has been reflected in submissions to the committee, opinion polls, and public commentary. A councillor elected at-large would have an unmanageably large constituency of around 850,000 people. We had serious reservations concerning the fairness of at-large seats and these changes will guard against the risk that council seats will only go to those who can afford to campaign across such a large constituency. We noted that in the past, before Auckland City had wards, the eastern suburbs were heavily represented, while the west and the south missed out.

Labour's main concerns

Below outlines the major areas of concern for the Labour members of the Auckland Governance Legislation Committee.

Māori representation

Labour believes there should be Māori seats on the new Auckland Council. Like Parliament itself and the Bay of Plenty Regional Council, these seats should be allocated on the basis of the number of Māori on the Māori roll.

We are also advocating for 25 general seats on the new Auckland Council—the National/Act plan for only 20 seats would lead to the bizarre situation where there would be fewer councillors in Auckland than there are MPs. This is hardly local government.

Under Labour's plan there would be at least two Māori seats in Auckland. But it could be more. The number of Māori seats will depend on how many Māori there are on the Māori roll in the Auckland region. The region itself still hasn't been defined, and won't be until 1 March 2010. Much will depend on the final boundaries. Also Māori are a young population, so demographics are in their favour. Labour will also be introducing further amendments to ensure statutory recognition of mana whenua in Auckland Council.

Local boards: size and number

The Royal Commission proposed six councils roughly modelled on the existing councils. The Government announced 20–30. We have argued for fewer boards than proposed by the Government to enable them to be large enough to be viable and influential, at the same time as being small enough to represent community interests. In particular, preservation of a community of interest is a key factor in so far as some parts of the city have an established community of interest (parts of Manukau and Waitakere, for example) and should not be chopped up into small pieces in order to meet the 20–30 target. And as the Royal Commission argued, a smaller number will be less costly and less disruptive. Labour prefers giving the Local Government Commission a range of 14–20 to work with. Labour supports Waiheke Island and Great Barrier Island each having their own board on the grounds that as isolated rural communities they each have a clearly established community of interest.

Wards

The bill proposes single-member wards for Rodney and Franklin and that the Local Government Commission is given the flexibility to es-

establish multi-member wards, or a mix of single- and multi-member wards for the other 18 seats, to recognise that the relevant communities of interest will vary greatly in size. We advocate that multi-member wards should be limited to two members per ward and exclude the possibility of wards that could have such a large number of members that it produces, in effect, at large elections. We believe that the proposed Rodney and Franklin wards must also conform to the same plus or minus 10 percent population formula to ensure they do not upset the proportionality that ensures the system is fair across the city.

Number of councillors

The bill proposes 20 councillors on the Auckland Council. This will produce wards of approximately 49,000 voters, and population of 70,000. We believe this ratio is too high for local government. It will make it difficult for candidates to campaign effectively, and undermine accessibility and accountability of councillors. For that reason we propose a council of 25 members.

Mayoral powers

The overall package of mayoral powers in the bill creates an unbalanced relationship between the mayor and councillors. It would amount to a significant break with the norms of local government in New Zealand. The submissions process clearly revealed Aucklanders are not comfortable with an executive mayor and favour a more collegial and collaborative leadership model. The mayor will still only have one vote. To be successful the mayor will have to work collaboratively with a majority of councillors to get things done. In the event of a stand-off between a mayor and a majority on the Council, a mayor who used the proposed new powers to determine the committee structure and appoint committee chairs and the deputy mayor, would risk exacerbating potential conflict. Labour advocates that the mayor nominate the deputy mayor and committee chairs but that those positions are elected by Council. We accept that the mayor needs to have an adequately resourced office in order to ensure the role is supported by independent policy advice and is not entirely dependent on the chief executive and council staff. We also accept that

the mayor is empowered to lead the development of the draft plan and budget.

Voting system

The bill proposes First Past the Post to be used to elect the mayor, councillors, and local board members in spite of many submissions to the select committee that preferential voting would deliver fairer, more representative results. Labour advocates the use of Single Transferable Vote for the election of the mayor, councillors, and board members. We believe that by ensuring candidates win on majorities, and that fewer votes are wasted, that this would deliver more legitimacy and is likely to lead to increased voter participation. Preferential voting, for instance STV, also delivers more diverse representation. If the Government decides not to include Maori seats on the Council this becomes even more urgent, but it is also important to encourage candidates from other ethnic minorities including Pasifika and Asian, as well as other important interest groups like youth and the disabled. The majority report rejects preferential voting on the grounds that unfamiliarity might confuse voters and depress turnout. Labour believes that this prospect could be minimised by ensuring the same voting system is used at all levels, and investing in voter education.

Pacific and Asian advisory boards

The Royal Commission's report provided profiles for Pacific and Asian people in Auckland and identified the challenges they faced in terms of housing, health, wages, education and skills development, transportation, and socio-economic issues. Labour notes that when there is improvement in the lives of Pacific and other ethnic groups, that there is also an improvement in statistics for the rest of New Zealand generally. The Royal Commission acknowledged that engagement with Pacific and Asian communities was critical to improving governance relationships and improving strategies aimed at increasing socio-economic productivity goals. The establishment of advisory panels for Pacific and ethnic or Asian communities is therefore recommended.

This is an area that is not addressed in the Government's current legislation. Labour supports the establishment of Pacific and Asian ad-

visory bodies. We believe they should be given a statutory purpose with direct links into the Auckland Council to ensure that they are recognised and required to meet with the entire council on a regular basis.

We received submissions from the existing Pacific Island Advisory Boards from Manukau, Waitakere, Auckland, and North Shore city councils, and other Pacific organisations, and other ethnic organisations and individuals on this issue. They advocated strongly, firstly for dedicated Māori seats, and then secondly, that the current legislation include the enabling of Pacific and Asian participation in the Auckland Council. Labour believes that the establishment of a new Auckland Council is a prime opportunity to develop a structure that is inclusive of people, and which will reflect the diversity of key sectors, namely Māori, Pacific and Asian people.

Youth engagement

The Royal Commission pointed out that under-25s make up 37 percent of Auckland's population. Labour believes that the new Auckland Council must strive to engage with the city's youth, both to ensure policies meet the needs of young people and because of the imperative to increase youth participation in the political process. Labour supports the establishment of representative youth structures.

Northern and southern boundaries

The bill proposes to partition Rodney District Council with the southern part joining Auckland and the northern part joining Kaipara District Council. Labour opposes this and supports the Royal Commission's recommendations that all of Rodney be included in the new Auckland Council. The Royal Commission argued persuasively that the regional boundary must be far enough from the metropolitan urban limit to ensure that non-conforming development does not leap-frog the limit to an area beyond the planning restrictions, thus defeating the purpose of the urban limit. Labour believes that Auckland's regional parks should stay within Auckland, and that transferring Auckland's prized northern beaches to the Kaipara District Council would be unlikely to afford them the protection from development they need.

In the south the bill proposes to partition Franklin with the north joining Auckland and the southern part joining Waikato District Council. This would mean that valuable Auckland assets such as the Mangatangi and Mangatawhiri dams, as well as Hunua and other regional parks would be outside the Auckland boundaries. Labour believes these should remain within Auckland, and advocates for the southern boundary to be pushed south to the Waikato River in line with the Royal Commission's recommendation.

Privatisation

Nothing in this bill protects the approximately \$28 billion in assets that will transfer to the Auckland Council. The Local Government Act 2002 provides limited protection for a number of assets including assets relating to the provision of water services, parks and reserves, and property vested in a local authority in trust or as an endowment. We believe more statutory protection is needed to cover a wider pool of assets. New Zealand has had ample experience of key infrastructure assets ending up in the hands of foreign owners, resulting in profits heading offshore. These assets should be kept in public hands for the public good.

Staff transition

This is a critical area that has not been addressed in this bill. More than 6000 local government workers in Auckland are uncertain about their jobs. They deserve to be given assurances of fairness and certainty sooner rather than later. Indeed, the Royal Commission identified the importance of "the need to provide certainty for council staff".

Of particular note is the example set by Queensland. Last year the number of councils was reduced from 157 to 73. During that transition it was guaranteed that no council staff below the level of chief executive would lose their jobs for a period of 3 years. A code of practice was drawn up that was jointly agreed to by all parties, including the workers and their representatives. Queensland recognised the importance of providing certainty to staff and the contribution toward achieving the goal of improving local government that workers could make.

Labour believes provisions should be inserted in the bill to guarantee fairness, guard against forced redundancies, and set out an approach designed to maximise the skills and capability of the workforce of the new Auckland Council.

Monitoring and accountability

Labour advocates the adoption of the performance auditor recommended by the Royal Commission. This would deal with the water monopoly as well as the other enterprises of the new Council. Given that the new water monopoly will be put in place shortly after the passage of this bill, we believe there is a good case for including a mechanism for monitoring and/or a complaints agency.

Social issues board

The Government has ignored one of the key recommendations of the Royal Commission. Labour advocates inclusion of the Royal Commission's recommendations in this bill.

Green Party minority view

While the Green Party welcomes some of the changes made to the original bill during its consideration by the committee, we continue to oppose the concept and the process overall.

We believe that local government works best when it is genuinely local, in touch with its community, and able to function as a grass-roots democracy. It is our opinion that the proposed super city will struggle to do this effectively. For example, councillors will represent huge constituencies and this will make it difficult for them to effectively represent the diversity of communities and concerns of all Aucklanders.

Community boards

We are concerned at the potential power imbalance between the new Council, which will be one of the largest organisations in New Zealand, and the local boards. The latter will have only 4–9 members—even fewer than current community boards and no staff of their own. We recommend a minimum of 11 members, adequately remunerated for the responsibilities undertaken.

We also believe that the boards should be given an alternative name, as the word “board” is tarnished by the powerlessness and inefficacy of the current Community Board structure.

Māori representation

The lack of provision for Māori representation on the new Council is an abrogation of our responsibilities within the Treaty relationship, and flies in the face of submissions made by a vast majority of Aucklanders, Māori and tau iwi alike.

Voting system

The absence of Māori representation also means that it is more important than ever that the voting system used is Single Transferable Vote (STV) rather than First Past the Post (FPP), in order to maximise representation of Māori and others who traditionally find it hard to win votes under first past the post voting systems.

We believe the most democratic form of voting for the new Council would be STV for both mayor and councillors. There is no sound reason why STV could not be legislated as the form of voting for the first election in 2010. Over a quarter of submitters supported STV and recognised the importance of the mayor being elected by a majority of voters.

Powers of the mayor

We are concerned that the mayor has excessive executive powers given to no other mayor in New Zealand and which are not recognised under the Local Government Act 2002. Under the proposed bill, the mayor will appoint the deputy mayor and all chairpersons of committees, and may even appoint him/herself as a committee chair.

We believe the mayor of Auckland should have the same powers as all other mayors, and that the deputy mayor and chairs of boards should be appointed by the Council, not the mayor.

We do however support the mayor’s office being granted an automatic percentage of 0.2 percent of the budget as this will assist the mayor’s ability to balance the power of the chief executive.

There are a few areas where we believe positive progress has been made, including:

- the removal of “at large” councillors and recommendation that most of the new city be divided into multi member wards
- the recommendation that Waiheke and Great Barrier have their own, separate local boards, and that the rest of the region be divided into between 18–28 board areas based on history, geography and community of interest
- the decision to keep the Hunua dams and all of Auckland’s regional parks within Auckland’s management and ownership, including those which end up outside the new Council’s boundaries
- the inclusion of statutory decision–making powers for the local boards, and the requirement that the Auckland Council must consider views expressed by local boards to ensure local input on regional as well as local issues. We also welcome the recommendation that funding allocated for local boards must be adequate to meet the real costs of implementing their services and facilities and administrative and operational costs.

Conclusion

Overall the Green Party continues to share the concerns of many submitters at the way in which the Government unilaterally revised the recommendations of the Royal Commission on Auckland Governance, and imposed the new structure without a poll of Aucklanders, which is required under the Local Government Act 2002.

We also fear the new governance structure may pave the way for privatisation of many local assets built up by generations of Aucklanders, and will seek to find legislative means to prevent this happening through either this or subsequent legislation.

Māori Party minority view

The Māori Party cannot support this bill as reported back from the Auckland Governance Legislation Committee because it does not

provide for Māori representation in the governance structure of the proposed Auckland Council.

At the first reading of the bill the Māori Party raised a number of points in support of dedicated Māori seats: that it was a specific recommendation of the Royal Commission on Auckland Governance; that it was consistent with current provisions in the Local Government Act 2002; and that dedicated Māori seats uphold the partnership relationship established between Māori and the Crown through the Treaty of Waitangi, including the partnership established with the mana whenua of the Auckland region.

This position has been underscored by the public submissions received by the Auckland Governance Legislation Committee examining the Local Government (Auckland Council) Bill, with the report noting that substantial support was received for reserved seats for Māori.

Flying in the face of this support, the committee has elected not to recommend that the bill provide for Māori seats on the proposed Auckland Council. The Māori Party is extremely disappointed with this decision. It calls into serious question the fundamental basis of the parliamentary democratic process that is to reflect decision-making “of the people, for the people”.

The decision of the committee also calls into serious question the commitment and understanding it has for the Treaty of Waitangi. The result of their failure to uphold the nation’s constitutional foundations, current law, and the wish of the people, will result in legislation that is not only in breach of the Treaty of Waitangi, but that is as short-sighted as it is discriminatory. It is short-sighted because it fails to acknowledge the reality of what Māori have to offer at the governance table for a “greater” Auckland region, and it is discriminatory because it denies recognition of the status of Māori as a people—a right recognised in every international human rights instrument developed in international law since the end of World War Two.

We do not agree that the committee was prevented from making a recommendation for dedicated Māori seats due to a lack of consensus on how Māori representation might be best expressed. The submissions received from mana whenua were consistent with one another and proposed a path forward that both acknowledged their status as mana whenua and included all Māori living in the Auckland region, consistent with tikanga Māori.

We also do not agree with the committee's view that the issue of Māori representation on the Auckland Council is best resolved through the Local Electoral Act 2001. Considerable time and funds have already been spent on canvassing public opinion (3,537 submissions were received by the Royal Commission on Auckland Governance, and 2,538 submissions by this committee), resulting in strong support for the establishment of Māori seats. In light of this, the committee's decision to recommend that yet more time and money be spent on seeking the views of electors in the Auckland region is illogical and fiscally irresponsible.

Justice should be the guiding ethical ideal for Parliament, and its members and committees, including the courage to create new laws to set new and just precedents to resolve enduring issues of concern to the nation—as was done in the previous Parliament in repealing section 59 of the Crimes Act. Instead, the opportunity to set a new, just standard for the recognition of mana whenua and Māori in governance arrangements has been bypassed.

The report of the committee is unjust, improper, and politically motivated. The bill signals an enduring and profoundly disturbing fear of sharing decision-making with Māori as provided for in the Treaty of Waitangi.

Appendix

Committee process

The Local Government (Auckland Council) Bill was referred to the Auckland Governance Legislation Committee on 13 May 2009. The closing date for submissions was 26 June 2009. We received and considered 2,538 submissions (including 1,010 form submissions) from interested groups and individuals. We heard 619 submissions, the majority of which were heard in the Auckland region. We held hearings in all seven districts, including Great Barrier Island and Waiheke Island, and on three marae.

We received advice from the Department of Internal Affairs. The Regulations Review Committee reported to the committee on the powers contained in clause 20.

Committee membership

Hon John Carter (Chairperson)

Dr Jackie Blue

John Boscawen

Sue Bradford

Simon Bridges

Hone Harawira

Hon George Hawkins

Hon Tau Henare (Deputy Chairperson)

Hon Shane Jones

Nikki Kaye

Su'a William Sio (non-voting member)

Phil Twyford

Local Government (Auckland Council) Bill

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously

~~text deleted unanimously~~

Hon Rodney Hide

Local Government (Auckland Council) Bill

Government Bill

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Local Government (Auckland Council) Bill

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Local Government (Auckland Council) Act **2009**.
- 2 Commencement**
- (1) **Part 2** comes into force on the close of **1 November 2010**. 5
- (2) The rest of this Act comes into force on the day after the date on which it receives the Royal assent.

Part 1
Preliminary provisions

- 3 Purpose of Act** 10
- The purpose of this Act is—
- (a) to make further provision for the Auckland Council established under **section 9 of the Local Government (Auckland Tamaki Makaurau Reorganisation) Act**

- 2009**, including setting out the matters in relation to its structure and functions, duties, and powers that differ from the general provisions applying to local authorities under the Local Government Act 2002; and
- (b) to provide the Local Government Commission with the necessary functions and powers to determine certain matters in relation to the Council; and
- (c) to amend certain enactments.

4 Interpretation

- (1) In this Act, unless the context ~~otherwise~~ requires another meaning,—

Auckland has the meaning given in **section 5**

Auckland means the area within the boundaries determined by the Local Government Commission under **section 18(1)** (as that determination is given effect to by Order in Council under **section 20(1)**)

Auckland Council or **Council** means the ~~Auckland Council~~ unitary authority established under **section 7**

governing body means the entity comprising the members of the Auckland Council (being the persons referred to in **section 8(1)**)

local activities means the non-regulatory activities of the Auckland Council in respect of which a local board is allocated decision-making responsibility under **section 13D**, including—

- (a) providing services; and
- (b) providing and operating facilities; and
- (c) providing funding and other support to groups and organisations

local board means a local board established under **section 10**

local board agreement means an agreement referred to in **section 13H**

local board area means an area specified by Order in Council under **section 20** as a local board area

Local Government Commission means the Local Government Commission continued under section 28 of the Local Government Act 2002

LTCCP means the Auckland Council long-term council community plan 5

Mayor means the Mayor of Auckland.

mayor means the mayor of Auckland.

- (2) Unless the context otherwise requires another meaning, terms and expressions used and not defined in this Act, but defined in the Local Government Act 2002, have the same meaning as in that Act. 10

5 Meaning of Auckland

- (1) In this Act, unless the context otherwise requires, **Auckland** means the area described as the Auckland region in the Local Government (Auckland Region) Reorganisation Order 1989 (*Gazette* 1989, p 2247). 15

- (2) **Subsection (1)** is subject to any instrument (for example, an Order in Council) redefining or altering that area.

6 Relationship between this Act and with Local Government Act 2002 and Local Electoral Act 2001 20

If there is any inconsistency between this Act and the Local Government Act 2002, the Local Electoral Act 2001, or any regulations made under those Acts, this Act prevails.

Part 2 Auckland Council 25

Auckland Council established as unitary authority

7 Auckland Council established

- (1) This section establishes a territorial authority for Auckland to be known as the Auckland Council. 30
- (2) The Auckland Council has, in relation to Auckland, the responsibilities, duties, and powers of a regional council.

- (3) The Auckland Council is the same body as that established under **section 9 of the Local Government (Auckland Tamaki Makaurau Reorganisation) Act 2009**.
- (4) Part 2 of Schedule 2 of the Local Government Act 2002 is consequentially amended by omitting the item relating to the Auckland Council and substituting the following item: 5
- Auckland Council **section 7** of the Local Government (Auckland Council) Act **2009**

7A Decision-making of Council shared between governing body and local boards

Despite section 41 of the Local Government Act 2002, for the purposes of carrying out its functions, responsibilities, and duties and exercising its powers as a territorial authority and a regional council,— 10

- (a) the Auckland Council has a two-tier governance structure comprising the governing body and the local boards; and 15
- (b) the decision-making responsibilities of the Auckland Council are shared between the governing body and the local boards in accordance with **sections 13A to 13J** of this Act.

Governing body 20

8 Governing body of Auckland Council

- (1) The governing body of the Auckland Council must comprise a mayor and 20 members elected in accordance with the Local Electoral Act 2001.
- (2) The ~~Mayor~~ mayor must be elected by the electors of Auckland as a whole. 25
- (3) ~~The members of the Auckland Council must be elected as follows:~~
- (a) ~~8 members elected by the electors of Auckland as a whole;~~ 30
- (b) ~~12 members elected on the basis of 1 member elected by the electors of each of 12 wards.~~

9 Mayor of Auckland

- (1) The role of the ~~Mayor~~ mayor is to—
- (a) articulate and promote a vision for Auckland; and
 - (b) provide leadership for the purpose of achieving objectives that will contribute to that vision. 5
- (2) ~~Without limiting **subsection (1)**, it is the Mayor's role to develop proposals for the draft long-term council community plan and the draft annual plan for consideration by the Council.~~
- (2) Without limiting **subsection (1)**, it is the role of the mayor 10
to—
- (a) lead the development of Council plans (including the LTCCP and the annual plan), policies, and budgets for consideration by the governing body; and
 - (b) ensure there is effective engagement between the Auckland Council and the people of Auckland. 15
- (3) For the purposes of **subsections (1) and (2)**, the ~~Mayor~~ mayor has the following powers:
- (aa) to establish processes and mechanisms for the Auckland Council to engage with the people of Auckland, whether generally or particularly (for example, the people of a cultural, ethnic, geographic, or other community of interest): 20
 - (a) to appoint the ~~Deputy Mayor~~ deputy mayor;
 - (ab) to establish committees of the governing body: 25
 - (b) ~~to appoint the chairperson of each committee of the Council and, for that purpose, may appoint himself or herself.~~
 - (b) to appoint the chairperson of each committee of the governing body and, for that purpose, the mayor— 30
 - (i) may make the appointment before the other members of the committee are determined; and
 - (ii) may appoint himself or herself.
 - (c) to establish and maintain an appropriately staffed office of the ~~Mayor~~ mayor. 35
- (4) The ~~Mayor~~ mayor must exercise the power in **subsection (3)(c)**—
- (a) in consultation with, and acting through, the Council's chief executive; and

- (b) within the budget in the annual plan adopted for that particular expenditure (being an amount not less than 0.2% of the Council's total budgeted operating expenditure for that year).
- (5) The ~~Mayor~~ mayor must not delegate any of his or her powers under **subsection (3)**. 5
- ~~(6) The Mayor is an ex officio member of every standing committee and subcommittee of the Auckland Council.~~
- (6) The mayor is a member of each committee of the governing body. 10
- (7) To avoid doubt,—
- (a) clause 17(1) of Schedule 7 of the Local Government Act 2002 does not apply to the election of the deputy mayor of the Auckland Council (unless the mayor declines to exercise the power under **subsection (3)(a)**); and 15
- (b) clause 25 of Schedule 7 of the Local Government Act 2002 does not apply to the election of the chairperson of a committee of a governing body, if the mayor exercises the power in **subsection (3)(b)** in respect of that committee; and 20
- (c) clause 30 of Schedule 7 of the Local Government Act 2002 applies to the Auckland Council, except to the extent that the mayor exercises the power in **subsection (3)(ab)**.

Local boards

25

10 Local boards

- (1) A local board must be established for each local board area for the purposes of—
- (a) enabling democratic decision making by, and on behalf of, communities within the local board area; and 30
- ~~(b) facilitating local input into the decision-making processes of the Council; and~~
- ~~(c) identifying local preferences in relation to matters of predominantly local significance.~~
- (b) better enabling the promotion of the social, economic, environmental, and cultural well-being of communities 35

within the local board area, in the present and for the future.

- (2) Accordingly, the role of a local board is—
- (a) to represent, and act as an advocate for, the residents and ratepayers of the local board area; and 5
 - (b) to make recommendations about matters affecting the local board area; and
 - (c) to exercise the powers and perform the functions and duties described in **section 13**.

11 Status of local boards 10

- (1) A local board is an unincorporated body.
 - (2) A local board is not a local authority, a community board, or a committee of the Council.
 - (3) A local board may not— 15
 - (a) acquire, hold, or dispose of property; or
 - (b) appoint, suspend, or remove employees.
- Compare: 2002 No 84 s 51

12 Membership of local boards

- (1) The number of members for each local board is determined by the Local Government Commission under **section 19(1)(d)**. 20
- (2) Members of a local board must be elected in accordance with the Local Electoral Act 2001.
- (2A) Sections 88A to 88F of the Local Electoral Act 2001 apply if, at any election, a person is declared to be elected as a member of the Auckland Council and either— 25
 - (a) he or she is already a member of a local board; or
 - (b) he or she is declared to be elected as a member of a local board.
- (3) A local board area may be subdivided for electoral purposes and, if so, the electors of each subdivision must elect at least 1 member of the local board. 30
- (4) If a local board area is not subdivided for electoral purposes, the members of the local board must be elected by the electors of the area as a whole.
- (5) For the purposes of **subsection (2) subsections (2) and (2A)**, the Local Electoral Act 2001 applies— 35

- (a) with any necessary modifications; and
- (b) as if any reference in that Act to a community were a reference to a local board area (within the meaning of this Act); and
- (c) as if any reference in that Act to a community board were a reference to a local board (within the meaning of this Act). 5

12A Status of local boards

- (1) A local board is an unincorporated body.
- (2) A local board is not a local authority, a community board, or a committee of the governing body. 10
- (3) A local board may not—
 - (a) acquire, hold, or dispose of property; or
 - (b) appoint, suspend, or remove employees.

13 Functions, duties, and powers of local boards 15

- (1) A local board has the following functions and duties:
 - (a) to perform the functions and duties; and to exercise the powers, conferred on a local board by or under this Act:
 - (b) to perform the functions and duties; and to exercise the powers, conferred on a local board by or under any other enactment: 20
 - (c) to reach agreement with the Council in respect of service levels, local facilities, and funding arrangements within its local board area:
 - (d) to monitor and review the services and facilities provided by the Council within its local board area: 25
 - (e) to consider and report on any matter of interest or concern to the local board; whether or not referred to it by the Council:
 - (f) to communicate with community organisations and special interest groups within its local board area: 30
 - (g) to undertake any other responsibilities or duties that are delegated to it by the Council under **section 15**:
- (2) A local board has the following powers:
 - (a) the powers that are delegated to it by the Council under **section 15**; and 35

- (b) ~~the powers that are conferred on it by or under this Act or any other enactment.~~

13 Functions, duties, and powers of local boards

- (1) A local board has the functions, duties, and powers conferred on a local board by or under this Act or any other enactment. 5
- (2) Without limiting **subsection (1)**, a local board—
- (a) must exercise the responsibilities conferred on it by **section 13C(1)**; and
- (b) must monitor and report on the implementation of the local board agreement for its local board area (in accordance with **section 13J**); and 10
- (c) must communicate with community organisations and special interest groups within its local board area; and
- (d) must undertake any responsibilities or duties that are delegated to it by the governing body under **section 17C**; and 15
- (e) may consider and report on any matter of interest or concern to the local board, whether or not the matter is referred to it by the governing body; and
- (f) may exercise any powers that are delegated to it by the governing body under **section 17C**. 20

Decision making

13A General scheme

- (1) This section sets out the general scheme of **sections 13A to 13H**. These are the provisions of this Act that set out how the Auckland Council, in its capacity as a local authority, makes its decisions. This section is by way of explanation only and does not limit or affect the other provisions of this Act or any other enactment. 25
- (2) Unlike other local authorities, both the governing body and the local boards are responsible and democratically accountable for the decision making of the Auckland Council. Whether responsibility for making any particular decision rests with the governing body or 1 or more or all of the local boards depends on the nature of the decision being made. 30
35

- (3) Section 13B sets out the classes of decisions that the governing body must make. Section 13C sets out the classes of decisions that local boards must make. Both sections include a class of decisions in respect of non-regulatory activities of the Council. The governing body allocates responsibility for any particular decision in this class of decisions to either itself or the local boards by applying the principles set out in section 13D. The results of the allocation must then be set out in the LTCCP and annual plans of the Council so that the people of Auckland, and any other persons, can easily determine whether the governing body or a local board is responsible for any particular decision of the Council. 5
- (4) To determine local wishes and priorities in relation to the non-regulatory activities for which a local board is allocated responsibility, the board must consult its communities. The local board does this by preparing a local board plan under section 13G. This plan is used as a basis for the board to develop an annual local board agreement with the governing body under section 13H in which the nature, levels, and funding of the activities are set out. 10 15 20

13B Decision-making responsibilities of governing body

- (1) The governing body is responsible and democratically accountable for—
- (a) the decision making of the Auckland Council in relation to any regulatory responsibility, duty, or power conferred on, or applying to, the Council under this Act or any other enactment (for example, the responsibilities, duties, or powers, conferred on, or applying to, a local authority under the Resource Management Act 1991, the Health Act 1956, the Building Act 2004, and the Civil Defence Emergency Management Act 2002); and 25 30
- (b) the decision making of the Auckland Council in relation to the non-regulatory activities of the Auckland Council that are allocated to the governing body in accordance with **section 13D**; and 35
- (c) the decision making of the Auckland Council in relation to the establishment and maintenance of capacity to provide, or ensure the provision of, services and facil-

- ities (including local activities) by the Auckland Council; and
- (d) the decision making of the Auckland Council in relation to compliance with section 101 of the Local Government Act 2002 (which relates to the financial management of a local authority); and 5
- (e) the agreement reached with each local board (as set out in each local board agreement) in respect of local activities for the local board areas.
- (2) Before making a decision described in **subsection (1)(a) to (d)**, the governing body must— 10
- (a) comply with any requirements of this Act; and
- (b) comply with any requirements of the Local Government Act 2002 and any other enactment; and
- (c) consider any views and preferences expressed by a local board, if the decision affects or may affect the responsibilities or operation of the local board or the well-being of communities within its local board area. 15
- 13C Decision-making responsibilities of local boards** 20
- (1) Each local board is responsible and democratically accountable for—
- (a) the decision making of the Auckland Council in relation to the non-regulatory activities of the Auckland Council that are allocated to the local board in accordance with **section 13D**; and 25
- (b) identifying and communicating the interests and preferences of the people in its local board area in relation to the content of the strategies, policies, plans, and bylaws of the Auckland Council; and
- (c) identifying and developing bylaws specifically for its local board area, and proposing them to the governing body under **section 13K**; and 30
- (d) the agreement reached with the governing body (as set out in the local board agreement) in respect of local activities for its local board area. 35
- (2) In carrying out the responsibilities described in this section, a local board must comply with the requirements of sections 76 to 82 of the Local Government Act 2002 as if every reference

in those sections to a local authority were a reference to a local board.

13D Principles for allocation of decision-making responsibilities of Auckland Council

- (1) Decision-making responsibility for any non-regulatory activity of the Auckland Council must be allocated by the governing body— 5
- (a) to either the governing body or the local boards; and
 - (b) in accordance with the principles set out in **subsection (2)**; and 10
 - (c) after considering the views and preferences expressed by each local board.
- (2) The principles are—
- (a) decision-making responsibility for a non-regulatory activity of the Auckland Council should be exercised by its local boards unless **paragraph (b)** applies; 15
 - (b) decision-making responsibility for a non-regulatory activity of the Auckland Council should be exercised by its governing body if the nature of the activity is such that decision making on an Auckland-wide basis will better promote the well-being of the communities across Auckland because— 20
 - (i) the impact of the decision will extend beyond a single local board area; or
 - (ii) effective decision making will require alignment or integration with other decisions that are the responsibility of the governing body; or 25
 - (iii) the benefits of a consistent or co-ordinated approach across Auckland will outweigh the benefits of reflecting the diverse needs and preferences of the communities within each local board area. 30

13E Local activities must be identified in LTCCP and annual plan

- (1) The LTCCP and each annual plan must identify the non-regulatory activities of the Auckland Council for which decision- 35

making responsibility is allocated to local boards under **section 13D**.

- (2) For the purposes of clause 2 of Schedule 10 of the Local Government Act 2002, the activities must be grouped together (whether in 1 or more groups) separately from any other activity or group of activities of the Council. 5
- (3) The matters in **subsection (1)** must first be identified in the LTCCP adopted for the period beginning 1 July 2012, and in each subsequent LTCCP.

Local boards funding policy 10

13F Local boards funding policy

- (1) To provide predictability and certainty about levels of funding for local boards, the Auckland Council must adopt a local boards funding policy.
- (2) The local boards funding policy must set— 15
- (a) the formula by which the total funds allocated by the Council for meeting the cost of funding local activities are to be allocated to each local board; and
- (b) the formula by which the total funds allocated by the Council for meeting the cost of funding the administrative support to local boards are to be allocated to each local board. 20
- (3) The local boards funding policy must also identify any funding (except funding dedicated to particular purposes) that may be available to local boards for local activities and the criteria or process by which it may be allocated to them. 25
- (4) The formula referred to in **subsection (2)(a)** must allocate funds between the local boards in a way that provides an equitable capacity for the local boards to enhance the well-being of the communities in each of their local board areas, having regard to the following factors: 30
- (a) the level of dependence on local government services and facilities in each local board area (as informed by socio-economic, population, age profile, and other demographic characteristics of each local board area); and 35

- (b) the costs of achieving and maintaining the identified levels of service provision for local activities in each local board area; and
- (c) the rates revenue and any other revenue derived from each local board area in relation to local activities; and 5
- (d) any other factor identified by the Auckland Council as significantly affecting the nature and level of services needed in each local board area (for example, the geographic isolation of a particular local board area).
- (5) The formula referred to in **subsection (2)(b)** must allocate funds between the local boards in a way that provides equitable resources and support to each local board, having regard to the following factors: 10
- (a) the number of elected members on each local board; and
- (b) the size of each local board area; and 15
- (c) any other factor identified by the Auckland Council as significantly affecting the operational costs of each local board; and
- (d) the funding amount allocated to each local board under **subsection (4)**. 20
- (6) For the purposes of adopting a funding policy under **subsection (1)**, section 102 of the Local Government Act 2002 applies, with any necessary modifications, and as if the following paragraph were added to subsection (4) of that section:
- “(g) a local boards funding policy”. 25
- (7) The Auckland Council must adopt its first policy under this section no later than the date that the LTCCP for the period commencing 1 July 2012 is adopted.

Local board plans and agreements

- 13G Local board plans** 30
- (1) Each local board must adopt a local board plan—
- (a) no later than 30 April in the year immediately after the year of each triennial general election; and
- (b) using the special consultative procedure.
- (2) The purpose of a local board plan is— 35
- (a) to reflect the priorities and preferences of the communities within the local board area in respect of the level and

- nature of local activities to be provided by the Auckland Council over the next 3 years; and
- (b) to identify and describe the interests and preferences of the people within the local board area for the purposes of enabling the local board to communicate those interests and preferences for the purposes of **section 13C(1)(b)**; and 5
- (c) to provide a basis for developing the local board agreement for each of the next 3 years; and
- (d) to inform the development of the next LTCCP, particularly in relation to the identification of the non-regulatory activities of the Council for which decision-making responsibility should be allocated to the local board; and 10
- (e) to provide a basis for accountability of the local board to the communities in the local board area; and 15
- (f) to provide an opportunity for people to participate in decision-making processes on the nature and level of local activities to be provided by the Council within the local board area.
- (3) A local board plan must include— 20
- (a) a statement of the standard levels of service for local activities; and
- (b) an explanation of each variation from the standard levels of service proposed for the local board area, if any; and 25
- (c) an estimate of the additional cost or the saving associated with each variation, if any; and
- (d) an indicative local board budget, incorporating the estimates referred to in **paragraph (c)**, that either—
- (i) does not exceed the estimated budget referred to in **subsection (4)(b)(iii)**; or 30
- (ii) exceeds the estimated budget referred to in **subsection (4)(b)(iii)**, but identifies how the expenses in excess of that budget are proposed to be met (for example, by a targeted rate for all or a part of the local board area). 35
- (4) For the purposes of adopting a plan under **subsection (1)**, section 83 of the Local Government Act 2002 applies as if,—

- (a) the local board were a local authority and the local board area were the district of the local authority; and
- (b) the statement of proposal referred to in subsection (1)(a) of that section required the inclusion of—
- (i) the information that is required by clause 2(2) of Schedule 10 of that Act to be included in the LTCPP— 5
- (A) in relation to local activities; and
- (B) for the following year; and
- (ii) a description of any variation from the standard levels of service provided for in the local board agreement for the current year; and 10
- (iii) the estimated budget for the local board for the following year; and
- (iv) the draft local board plan. 15
- (5) In this section,—
- following year** means the year commencing on the next 1 July
- standard levels of service** means the levels of service provision for local activities specified in the LTCCP in accordance with clause 2(2)(a) of Schedule 10 of the Local Government Act 2002. 20

13H Local board agreements

- (1) The Auckland Council must have a local board agreement for each local board area as agreed between the governing body and the local board. 25
- (2) As far as practicable, a local board agreement must be consistent with the local board plan adopted by the local board, except to the extent that 1 or more of the following applies:
- (a) the local board determines that the priorities and preferences in the local board plan no longer reflect the priorities and preferences of the communities in the local board area; or 30
- (b) the governing body determines that the indicative budget in the local board plan is significantly inaccurate; or 35
- (c) consistency with the local board plan would be contrary to any enactment.

- (3) A local board agreement must state, in respect of the local activities to be provided in the local board area,—
- (a) the intended levels of service provision for each activity, including the performance targets and other measures by which the actual levels of service provision may meaningfully be assessed; and 5
 - (b) the estimated expenses of achieving and maintaining the identified levels of service provision, including the estimated expenses associated with maintaining the service capacity and integrity of assets; and 10
 - (c) how any expenses in excess of the local board’s budget are to be met (including the estimated revenue levels, the other sources of funds, and the rationale for their selection in terms of section 101(3) of the Local Government Act 2002). 15

13I Local board agreements to be included in LTCCP and annual plan

- (1) The LTCCP and each annual plan of the Auckland Council must include the local board agreement for each local board area. 20
- (2) For the purposes of **subsection (1)**, the Council must prepare a different statement of proposal for the annual plan for each local board area that includes in the draft annual plan—
 - (a) the information identified under **section 13E**; and
 - (b) the draft local board agreement for the local board area. 25
- (3) Submissions on each version of the statement of proposal must be considered jointly by the governing body and the relevant local board.
- (4) Nothing in this section applies to a draft annual plan included in a statement of proposal in respect of the annual plan for the year immediately following a triennial election of local board members. 30

13J Monitoring and reporting

- (1) Each local board must monitor the implementation of the local board agreement for its local board area. 35

- (2) Each annual report of the Auckland Council must include, in respect of local activities for each local board area,—
- (a) a comparison between the actual levels of service provision of the activities and the intended levels of service provision of the activities (as stated in the local board agreement for that year); and 5
 - (b) the reasons for any significant variance between the actual and the expected service provision.
- (3) Each local board must comment on the matters included in the annual report under **subsection (2)** in respect of its local board area and the Council must include those comments in the annual report. 10

Bylaws

13K Local board may propose bylaw

- (1) A local board may propose to the governing body, in writing, that a bylaw be made to apply only in, or in any part of, its local board area. 15
- (2) As soon as practicable after receiving a proposal under **subsection (1)**, the governing body must decide whether the proposed bylaw meets the following requirements: 20
- (a) the proposed bylaw complies with the applicable statutory requirements; and
 - (b) the proposed bylaw is not inconsistent with any strategy, policy, plan, or bylaw of the Council; and
 - (c) the proposed bylaw can be implemented and enforced within the local board's budget; and 25
 - (d) the proposed bylaw will not have any significant effect outside the local board's area.
- (3) If the governing body decides that a proposed bylaw—
- (a) meets the requirements of **subsection (2)**, it must give written notice of its decision to the local board: 30
 - (b) does not meet the requirements of **subsection (2)**, it must give written notice of its decision (with reasons) to the local board.

13L Local board must consult on proposed bylaw

- (1) This section applies if a local board has received notice under **section 13K(3)(a)** from the governing body in respect of a bylaw that the local board has proposed.
- (2) The local board must confirm the proposed bylaw using the special consultative procedure within the local board area and, for that purpose, section 156(1) of the Local Government Act 2002 applies, with any necessary modifications, as if the local board were a local authority and the bylaw were a bylaw being made under that Act. 5
- (3) If, after acting under **subsection (2)**, the local board confirms the proposed bylaw, it must give written notice of its decision to the governing body and the governing body must make the bylaw. 10
- (4) If, after acting under **subsection (2)**, the local board modifies the proposed bylaw, it must give written notice of its decision to the governing body and the governing body must— 15
- (a) if satisfied that the proposed bylaw meets the requirements of **section 13K(2)**, make the bylaw; or
- (b) if not satisfied that the proposed bylaw meets the requirements of **section 13K(2)**, give notice to the local board under **section 13K(3)(b)**. 20
- (5) The confirmation or modification of a proposed bylaw under this section satisfies the requirements of sections 86, 155, and 156(1) of the Local Government Act 2002 in respect of any bylaw to which **subsection (3) or (4)(a)** applies. 25

13M Local board may propose amendment to bylaw

- (1) A local board may propose to the governing body, in writing, that a bylaw that applies only in, or only in any part of, its local board area be amended. 30
- (2) For the purposes of **subsection (1)**, **sections 13K and 13L** apply with any necessary modifications.

13N Local board may propose revocation of bylaw

- (1) A local board may propose to the governing body, in writing, that a bylaw that applies only in, or only in any part of, its local board area be revoked. 35

- (2) As soon as practicable after receiving a proposal under **subsection (1)**, the governing body must decide whether the proposed revocation—
- (a) complies with the applicable statutory requirements;
 - and
 - (b) is not inconsistent with any strategy, policy, or plan of the Council; and
 - (c) will not have any significant effect outside the local board’s area.
- (3) If the governing body decides that a proposed revocation—
- (a) meets the requirements of **subsection (2)**, it must give written notice of its decision to the local board;
 - (b) does not meet the requirements of **subsection (2)**, it must give written notice of its decision (with reasons) to the local board.
- (4) If the local board receives notice under **subsection (3)(a)**, **section 13L(2), (3), and (5)** apply, with any necessary modifications, as if the proposed revocation were a proposed bylaw.

130 Joint bylaw proposals

- (1) Two or more local boards may propose to the governing body, in writing, that a bylaw be made to apply only in, or only in any part of, the local boards’ areas.
- (2) For the purposes of **subsection (1)**, **sections 13K to 13M** apply with any necessary modifications.

14 Application of Schedule 7 of Local Government Act 2002 to local boards

Part 1 of Schedule 7 (other than clauses 15 and 32AA to 36) of the Local Government Act 2002 apply to a local board, with all necessary modifications, as if the local board were a local authority.

15 Delegations

- (1) The Council may delegate to a local board any of its responsibilities, duties, and powers except the powers described in clause 32(1)(a) to (f) of Schedule 7 of the Local Government Act 2002.

- (2) Nothing in **subsection (1)** restricts the Council's power to delegate to a local board the power to do anything precedent to the exercise by the Council (after consultation with the local board) of a power referred to in that subsection.
- (3) In determining whether to make a particular delegation, the Council must weigh the benefits of reflecting local circumstances and preferences (through a delegation) against the importance and benefits of a single approach across Auckland (through itself retaining the responsibility, duty, or power concerned). 5 10
- (4) A local board may delegate any of its responsibilities, duties, and powers delegated to it by the Council to a subcommittee or person.
- (5) **Subsection (4)** is subject to any conditions, limitations, or prohibitions imposed on the local board by the Council when making the original delegation. 15
- (6) A local board to which the Council has delegated responsibilities, duties, or powers, or a subcommittee or person to which or to whom a local board has delegated responsibilities, duties, or powers, may, without confirmation by the Council or the local board (as the case may be), exercise or perform the responsibilities, duties, or powers in the same manner and with the same effect as the Council could itself have exercised or performed them. 20
- 16 Council to provide administrative and other facilities for local boards** 25
The Council must provide the necessary administrative and other facilities for each local board to carry out its functions and perform its duties.
- 17 Expenses of local boards** 30
- (1) The Council must pay the expenses of each local board incurred in performing and exercising its responsibilities, duties, and powers.
- (2) However, the Council may fix a limit within which a local board may incur expenses under **subsection (1)**; and the local 35

board must not incur expenses above that limit without the prior approval of the Council.

Miscellaneous matters relating to local boards

- 17A** **Application of Schedule 7 of Local Government Act 2002 to local boards** 5
Part 1 of Schedule 7 (except clauses 15 and 32AA to 36) of the Local Government Act 2002 applies to a local board, with any necessary modifications, as if the local board were a local authority.
- 17B** **Code of conduct** 10
Each member of each local board must comply with the code of conduct adopted by the governing body under clause 15 of Schedule 7 of the Local Government Act 2002.
- 17C** **Delegations**
- (1) The governing body may delegate to a local board any of its responsibilities, duties, and powers except the powers described in clause 32(1)(a) to (f) of Schedule 7 of the Local Government Act 2002. 15
- (2) However, nothing in **subsection (1)** restricts the governing body's power to delegate to a local board the power to do anything precedent to the exercise by the governing body of any power referred to in clause 32(1)(a) to (f) of that schedule. 20
- (3) In deciding whether to make a delegation, the governing body must weigh the benefits of reflecting local circumstances and preferences (through a delegation) against the importance and benefits of using a single approach across Auckland (through itself retaining the responsibility, duty, or power concerned). 25
- (4) A local board may delegate any of its responsibilities, duties, and powers delegated to it by the governing body to a subcommittee or person. 30
- (5) **Subsection (4)** is subject to any conditions, limitations, or prohibitions imposed on the local board by the governing body when making the original delegation.
- (6) A local board to which the governing body has delegated responsibilities, duties, or powers, or a subcommittee or person 35

to which or to whom a local board has delegated responsibilities, duties, or powers, may, without confirmation by the governing body or the local board (as the case may be), exercise or perform the responsibilities, duties, or powers in the same manner and with the same effect as the governing body could itself have exercised or performed them. 5

17D Chief executive responsible for certain matters in relation to local boards

The chief executive of the Auckland Council is responsible to the Auckland Council for— 10

- (a) implementing the decisions of each local board; and
- (b) implementing each local board agreement; and
- (c) providing advice to each local board and its members; and
- (d) providing the administrative and other facilities for each local board necessary for the board to carry out its functions and perform its duties. 15

Part 3

Transitional arrangements

Subpart 1—Local Government Commission 20

18 Local Government Commission to determine boundaries of Auckland

(1) The Local Government Commission must, no later than **1 March 2010**, determine the boundaries of Auckland.

(1A) In making a determination under **subsection (1)** in relation to the northern boundary of Auckland, the Commission must— 25

- (a) ensure that—
 - (i) the northern boundary of Auckland generally follows a line between the mouth of the Puhoi River and the mouth of the Makarau River; and 30
 - (ii) the area of Rodney district removed from Auckland by the operation of **paragraph (a)** be included in Kaipara district and Northland region; and

- (b) determine all matters arising from the boundary adjustment it is required to make under **paragraph (a)** (for example, the transfer of responsibilities and assets); and
- (c) without limiting **paragraphs (a) and (b)**, act in accordance with **Part 1 of the Schedule**. 5
- (2) In making a determination under **subsection (1)** in relation to the southern boundary of Auckland, the Commission must—
- (a) ensure that the southern boundary of Auckland follows, as closely as practicable, the existing boundary of the Auckland region except that the following areas must, as far as practicable, be excluded (and consequently included in the Waikato district and Waikato region): 10
- (i) Mangatawhiri River and Mangatangi Stream catchments;
- (ii) that part of Franklin District situated between the Mangatangi Stream catchment and the Firth of Thames; and 15
- (a) ensure that the southern boundary of Auckland follows, as closely as practicable, the southern boundary of the Auckland region except that— 20
- (i) the Mangatawhiri River and Mangatangi Stream catchments must, as far as practicable, be excluded (and consequently included in Waikato district and Waikato region); and
- (ii) that part of Franklin district situated between the Mangatangi Stream catchment and the Firth of Thames must, as far as practicable, be excluded (and consequently included in Waikato region and either Hauraki district or Waikato district); and 25 30
- (b) determine all matters arising from the boundary adjustment it is required to make under **paragraph (a)** (for example, the transfer of responsibilities and assets); and
- (c) without limiting **paragraphs (a) and (b)**, act in accordance with **Part 2 of the Schedule**. 35
- (2A) In making a determination in relation to the remaining boundaries of Auckland, the Local Government Commission must ensure that, so far as is practicable and consistent with the

boundaries determined under **subsections (1A) and (2)**, the boundaries follow the boundaries of the Auckland region.

- (3) For the purposes of making a determination, the Local Government Commission—
- (a) may undertake the investigations and consult the persons that it thinks desirable; but 5
- (b) is not required to consult any person.
- (4) The Commission may amend a determination made under this section if satisfied that—
- (a) some further or other provision is necessary to enable, or better enable, the intention of the determination; or 10
- (b) some provision of the determination is no longer relevant or appropriate to the intention of the determination.
- (5) ~~Despite **subsection (4)**, if~~ If the amendment relates to a map or plan, the Commission may amend the map or plan, without further authority than this subsection, but must give notice of the amendment in the *Gazette*. 15
- (5A) In this section,—
- Auckland region** means the area described as the Auckland region in the Local Government (Auckland Region) Reorganisation Order 1989 (*Gazette* 1989, p 2247) 20
- Hauraki district** means the area described as the Hauraki district in the Local Government (Waikato Region) Reorganisation Order 1989 (*Gazette* 1989, p 2479)
- Kaipara district** means the area described as the Kaipara district in the Local Government (Northland Region) Reorganisation Order 1989 (*Gazette* 1989, p 2400) 25
- Northland region** means the area described as the Northland region in the the Local Government (Northland Region) Reorganisation Order 1989 (*Gazette* 1989, p 2392) 30
- Rodney district** means the area described as the Rodney district in the Local Government (Auckland Region) Reorganisation Order 1989 (*Gazette* 1989 p 2253)
- Waikato district** means the area described as the Waikato district in the Local Government (Waikato Region) Reorganisation Order 1989 (*Gazette* 1989, p 2469) 35

Waikato region means the area described as the Waikato region in the Local Government (Waikato Region) Reorganisation Order 1989 (*Gazette* 1989, p 2463).

(6) For the purposes of **subsection (2)**,—

Auckland region means the area described as the Auckland region in the Local Government (Auckland Region) Reorganisation Order 1989 (*Gazette* 1989, p 2247) 5

Waikato district means the area described as the Waikato district in the Local Government (Waikato Region) Reorganisation Order 1989 (*Gazette* 1989, p 2460) 10

Waikato region means the area described as the Waikato region in the Local Government (Waikato Region) Reorganisation Order 1989 (*Gazette* 1989, p 2460).

19 Determinations of Local Government Commission (other than boundaries of Auckland) to determine local board areas and wards 15

(1) The Local Government Commission must, no later than **1 March 2010**, determine—

(a) the names and boundaries of the 12 wards of Auckland; and 20

(b) determine the number and names of local board areas within Auckland; and

(c) determine the boundaries of—

(i) each local board area; and

(ii) electoral subdivisions, if any, of each of those areas; and 25

(d) determine the number of elected members of the local board for each of the local board areas and, if the local board areas are subdivided for electoral purposes, the number of members to be elected by the electors of each ~~subdivision.~~ subdivision; and 30

(e) for the purposes of the **October 2010** triennial general elections, divide Auckland into wards and—

(i) determine the number, names, and boundaries of the wards; and 35

(ii) determine the number of elected members for each ward.

- (2) In making a determination under **subsection (1)(a)**, the Commission must ensure that the boundaries,—
- (a) so far as is practicable, provide effective representation of communities of interest within Auckland; and
 - (b) so far as is practicable, provide fair representation to the electors of each of the 12 wards; and 5
 - (c) so far as is practicable, coincide with boundaries of local board areas; and
 - (d) coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes. 10
- (3) In making a determination under **subsection (1)(b), (c), or (d)**, the Commission must ensure that—
- (a) there are no fewer than 20 but no more than 30 local board areas; and 15
 - (b) there are no fewer than 4 but no more than 9 members for each local board; and
 - (c) so far as is practicable, the boundaries of local board areas, and any electoral subdivisions, and the number of members to be elected, provide effective representation of communities of interest within Auckland; and 20
 - (d) the subdivision of any local board area for electoral purposes provides fair representation for the electors of the local board area; and
 - (e) the local board area boundaries, or subdivisions of those areas for electoral purposes, coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes; and 25
 - (f) so far as is practicable, local board area boundaries coincide with ward boundaries; and 30
 - (g) a local board area is constituted for the Waiheke Island community; and
 - (h) a local board area is constituted for the Great Barrier Island community. 35
- (4) However, if the Commission considers that effective representation of communities of interest so requires, the number of local board areas may be set in a way that does not comply with **subsection (3)(a)**.

- (4A) In making a determination under **subsection (1)(e)**, the Commission must—
- (a) ensure that the boundaries of the wards—
 - (i) so far as is practicable, provide effective representation of communities of interest within Auckland; and
 - (ii) so far as is practicable, coincide with boundaries of local board areas; and
 - (iii) coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes; and
 - (b) ensure that the boundaries of each ward, together with the number of elected members of each ward, so far as is practicable, provide fair representation to the electors of each ward; and
 - (c) include in its determination—
 - (i) a single-member ward, based on the area of Rodney district remaining within the boundaries of Auckland (as determined by the Commission in accordance with **section 18(1A)**); and
 - (ii) a single-member ward, based on the area of Franklin district remaining within the boundaries of Auckland (as determined by the Commission in accordance with **section 18(2)**).
- (4B) For the purposes of giving effect to **subsection (3)(d)**, the Commission must ensure that the population of each subdivision divided by the number of members to be elected by the subdivision produces a figure no more than 10% greater or smaller than the population of the local board area divided by the total number of elected members of the local board.
- (5) For the purposes of giving effect to **subsection (2)(b)(4A)(b)**, the Commission must ensure that the population of each ward divided by the number of members to be elected by the ward produces a figure no more than 10% greater or smaller than the population of Auckland divided by the total number of elected members (other than members elected by the electors of Auckland as a whole and the Mayor the mayor).

- (6) For the purposes of giving effect to **subsection (3)(d)**, the Commission must ensure that the population of each subdivision divided by the number of members to be elected by the subdivision produces a figure no more than 10% greater or smaller than the population of the local board area divided by the total number of elected members of the local board. 5
- (7) However, if the Commission considers that effective representation of communities of interest so requires, wards and subdivisions may be defined, and membership distributed between them, in a way that does not comply with **subsection 4B or (5) or (6)**, as the case may be. 10
- (8) **Section 18(3) to (5)** applies to any determination made under this section as if it were a determination to which **section 18** applied.
- 20 Order in Council to give effect to determinations** 15
- (1) A determination made under **section 18(1) or 19(1)**—
- (a) is given effect to by Order in Council; and
 - (b) has effect on and from **1 November 2010**.
- (2) A determination amended under **section 18(4)**—
- (a) is given effect to by Order in Council; and 20
 - (b) has effect on and from the date specified for this purpose by the Order in Council.
- (3) If a determination does not specifically provide for a matter that the Secretary for Local Government considers to be necessary, desirable, or incidental as a consequence of the determination,— 25
- (a) the Secretary must consult the Commission about the inclusion of the matter in the Order in Council; and
 - (b) the matter may be included in the order if considered appropriate by the Governor-General in Council. 30
- (4) Clause 67 of Schedule 3 of the Local Government Act 2002 applies in respect of a determination made under **section 18(1) in relation to the southern boundary of Auckland** that is given effect to by Order in Council, except to the extent that the determination provides that the clause is— 35
- (a) amended in its application by the determination; or
 - (b) declared not to apply.

- (5) Clauses 59, ~~60~~, to 61, 64, 65, and 68 to 70 of Schedule 3 of the Local Government Act 2002 apply to a determination made under **section 18(1)** in relation to the southern boundary of ~~Auckland~~ that is given effect to by Order in Council.
- (6) For the purposes of **subsections (4) and (5)**, Schedule 3 of the Local Government Act 2002 applies—
- (a) with any necessary ~~modification~~ modifications; and
 - (b) as if every reference to a reorganisation scheme or scheme were a reference to a determination made under **section 18(1)** in relation to the southern boundary of ~~Auckland~~.
- (7) An Order in Council under **subsection (1)**—
- (a) must be made before **10 April 2010**; and
 - (b) is not a regulation for the purposes of the Regulations (Disallowance) Act 1989 or the Acts and Regulations Publication Act 1989.

Subpart 2—Consequential amendments

21 Amendment to Local Government Act 2002

Clause 6(1) of Schedule 7 of the Local Government Act 2002 is amended by adding the following paragraphs: 20

- “(e) chairpersons and members of local boards (as defined in **section 4(1) of the Local Government (Auckland Council) Act 2009**):
- “(f) chairpersons of committees of local boards (as defined in **section 4(1) of the Local Government (Auckland Council) Act 2009**).” 25

Part 4

Amendments to Local Government (~~Auckland~~ Tamaki Makaurau Reorganisation) Act 2009 30

22 Principal Act amended

This Part amends the **Local Government (Auckland Tamaki Makaurau Reorganisation) Act 2009**.

23 Functions and duties of Transition Agency

(1) Section 13(1) is amended by inserting the following paragraph after paragraph (c):

“(ca) to approve a process for, and oversee, the planning and management of the integration of Auckland’s water supply and wastewater services by Watercare Services Limited (acting under **section 30A**):”

(2) Section 13 is amended by adding the following subsection:

“(5) Nothing in **subsection (1)(ca)** applies to stormwater drainage services.”

23A Appointment of electoral officer for October 2010 triennial general elections

Section 14 is amended by adding the following subsection:

“(3) For the purposes of the October 2010 triennial general elections,—

“(a) the elections for the Auckland Council will be held using the electoral system commonly known as First Past the Post (as defined in section 5(1) of the Local Electoral Act 2001); and

“(b) the members of the Auckland Council (other than the mayor) must be elected by the electors of each ward of Auckland (as those wards and the number of members for each ward are determined by the Local Government Commission under **section 19(1)(e) of the Local Government (Auckland Council) Act 2009** and given effect to by Order in Council under **section 20 of that Act**).”

24 New section 30A inserted

The following section is inserted after **section 30**:

“**30A Watercare Services to plan and manage integration of water supply and wastewater services**”

“(1) Watercare Services Limited must plan and manage the integration of water supply and wastewater services in Auckland—

“(a) under the oversight of the Transition Agency; and

“(b) in accordance with the process approved by the Transition Agency under section 13(1)(ca); and

“(c) in a way that ensures that Watercare Services Limited becomes the provider of integrated water supply and wastewater services to Auckland.

“(2) For the purposes of **subsection (1)**, Watercare Services Limited must formulate—

5

“(a) a plan for the interim management, as from **1 November 2010**, of stand-alone water and wastewater schemes within Auckland; and

“(b) detailed proposals for the long-term management and operation of those schemes for consideration by the Auckland Council and its local boards.

10

“(3) Nothing in this section applies to stormwater drainage services.”

Schedule	s 18(2)(c)
Matters to be addressed by Local Government Commission when making determination under section 18(1) in relation to southern boundary determining certain boundaries of Auckland	5
Part 1	s 18(1A)(c)
<u>Matters to be addressed in relation to northern boundary</u>	
<u>1AA Interpretation</u>	10
<u>In this Part,—</u>	
<u>local authorities means the Auckland Council, the Kaipara District Council, the Rodney District Council, the Auckland Regional Council, and the Northland Regional Council</u>	
<u>local authority means the Auckland Council, the Kaipara District Council, the Rodney District Council, the Auckland Regional Council, or the Northland Regional Council, as the case may be.</u>	15
<u>1AB Determination</u>	
<u>The determination may deal with 1 or more of the following matters:</u>	20
(a) <u>the apportionment and transfer of assets or liabilities or both, or a class or classes of assets or liabilities or both, from the Rodney District Council or the Auckland Regional Council to the Auckland Council, the Kaipara District Council, or the Northland Regional Council:</u>	25
(b) <u>the transfer of the provision of services, or a class or classes of services, from the Rodney District Council or the Auckland Regional Council to the Auckland Council, the Kaipara District Council, or the Northland Regional Council:</u>	30
(c) <u>the transfer of employees, or a class or classes of employees, of the Rodney District Council or the Auckland Regional Council to the Auckland Council, the Kaipara District Council, or the Northland Regional Council:</u>	35

Part 1—*continued*

- (d) the transfer of a statutory obligation from the Rodney District Council or the Auckland Regional Council to the Auckland Council, the Kaipara District Council, or the Northland Regional Council:
- (e) the transfer of a function, duty, or power from the Rodney District Council or the Auckland Regional Council to the Auckland Council, the Kaipara District Council, or the Northland Regional Council: 5
- (f) any matter incidental to, or required for the purpose of, any of the transfers in **paragraphs (a) to (e)**: 10
- (g) the division of Kaipara district or Northland region into wards or constituencies:
- (h) the administration of an existing, proposed, or operative district plan or regional plan under the Resource Management Act 1991: 15
- (i) the rates to be set and assessed, over a specified period, in the parts of Kaipara district or Northland region that were formerly part of Rodney district (which may differ from the rates set and assessed in other parts of Kaipara district or Northland region). 20

1AC Objectives

When making the determination, the Local Government Commission must—

- (a) satisfy itself that the determination will maximise, in a cost-effective manner, the current and future well-being of the local authorities and the communities concerned; 25
and
- (b) have regard to—
- (i) the area of impact of the responsibilities, duties, and powers of the local authorities; and 30
- (ii) the area of benefit of services provided; and
- (iii) any other matters that it considers appropriate.

1AD No compensation payable if responsibility transferred

Unless **clause 1AE** applies, if provision is made in the determination for a responsibility to be transferred to, or assumed 35

Part 1—continued

by, a local authority, provision may not be made for the payment of compensation to the local authority from which that responsibility is transferred or assumed.

1AE Payment if undertaking transfer

- (1) If the determination provides for the transfer of a trading undertaking from a local authority (**transferor**) to another local authority (**transferee**), the transferor may request the Commission to determine whether any payment for the transfer of that trading undertaking should be made by the transferee to the transferor, and, if so, the amount of the payment. 5 10
- (2) The Commission may, in considering a request under **sub-clause (1)**, require the local authorities concerned to each appoint an independent person as an assessor to report to the Commission on whether any payment should be made. 15
- (3) The costs incurred by assessors must be met jointly by the local authorities appointing the assessors.
- (4) In making a determination under this clause, the Commission may attach the conditions that it considers desirable.

Part 2**s 18(2)(c)** 20Matters to be addressed in relation to southern boundary**1 Interpretation**

In this ~~schedule~~ Part,—

local authorities means the Auckland Council, the Franklin District Council, the Hauraki District Council, the Waikato District Council, the Auckland Regional Council, and the Waikato Regional Council 25

local authority means the Auckland Council, the Franklin District Council, the Hauraki District Council, the Waikato District Council, the Auckland Regional Council, or the Waikato Regional Council, as the case may be. 30

Part 2—continued

local authorities means ~~Auckland Council, Franklin District Council, Waikato District Council, and Waikato Regional Council.~~

2 Determination

The determination may deal with 1 or more of the following matters: 5

- (a) the apportionment and transfer of assets or liabilities or both, or a class or classes of assets or liabilities or both, from ~~the Franklin District Council or the Auckland Regional Council~~ to the Auckland Council, the Hauraki District Council, the Waikato District Council, or the Waikato Regional Council: 10
- (b) the transfer of the provision of services, or a class or classes of services, from ~~the Franklin District Council or the Auckland Regional Council~~ to the Auckland Council, the Hauraki District Council, the Waikato District Council, or the Waikato Regional Council: 15
- (c) the transfer of employees, or a class or classes of employees of ~~the Franklin District Council or the Auckland Regional Council~~ to the Auckland Council, the Hauraki District Council, the Waikato District Council, or the Waikato Regional Council: 20
- (d) the transfer of a statutory obligation from ~~the Franklin District Council or the Auckland Regional Council~~ to the Auckland Council, the Hauraki District Council, the Waikato District Council, or the Waikato Regional Council: 25
- (e) the transfer of a function, duty, or power from ~~the Franklin District Council or the Auckland Regional Council~~ to the Auckland Council, the Hauraki District Council, the Waikato District Council, or the Waikato Regional Council: 30
- (f) any matter incidental to, or required for the purpose of, any of the transfers in **paragraphs (a) to (e):**
- (g) the division of ~~the Hauraki district, the Waikato district,~~ or the Waikato region into wards or constituencies: 35

Part 2—continued

- (h) the administration of an existing, proposed, or operative district plan or regional plan under the Resource Management Act 1991:
- (i) ~~the system of rating to be in force in Waikato district or Waikato region, which may provide that—~~ 5
- (i) ~~for a specified period, different rating systems apply to all rates, or to the kinds of rates that are specified in the determination or set and assessed in the new parts of Waikato district or Waikato region or across the entire Waikato district or Waikato region.~~ 10
- (ii) ~~for a specified period (but no longer than 5 years), different rating systems may be applied to all rates in the Waikato district or Waikato region, or to specified rates, set and assessed in the new parts of Waikato district or Waikato region or across the entire Waikato district or Waikato region.~~ 15
- (i) the rates to be set and assessed, over a specified period, in the parts of Hauraki district, Waikato district, or Waikato region that were formerly part of Franklin district (which may differ from the rates set and assessed in other parts of Hauraki district, Waikato district, or Waikato region). 20
- 3 Objectives** 25
- When making the determination, the Local Government Commission must—
- (a) satisfy itself that the determination will maximise, in a cost effective manner, the current and future well-being of the local authorities and the communities concerned; and 30
- (b) have regard to—
- (i) the area of impact of the responsibilities, duties, and powers of the local authorities; and
- (ii) the area of benefit of services provided; and 35
- (iii) any other matters that it considers appropriate.

Part 2—continued

4 No compensation payable if responsibility transferred

Unless **clause 5** applies, if provision is made in the ~~reorgan-~~
~~isation scheme~~ determination for a responsibility to be trans-
ferred to, or assumed by, a local authority, provision may not
be made for the payment of compensation to the local author- 5
ity from which that responsibility is transferred or assumed.

5 Payment if undertaking transfer

- (1) If a ~~reorganisation plan~~ the determination provides for the
transfer of a trading undertaking from a local authority (**trans-**
feror) to another local authority (**transferee**), the transferor 10
may request the Commission to determine whether any pay-
ment for the transfer of that trading undertaking should be
made by the transferee to the transferor, and, if so, the amount
of the payment.
- (2) The Commission may, in considering a request under **sub-** 15
clause (1), require the local authorities concerned to each
appoint an independent person as an assessor to report to the
Commission on whether any payment should be made.
- (3) The costs incurred by assessors must be met jointly by the local
authorities appointing the assessors. 20
- (4) In making a determination under this clause, the Commission
may attach the conditions that it considers desirable.

Legislative history

13 May 2009
13 May 2009

Introduction (Bill 36-1)
First reading and referral to Auckland Governance
Legislation Committee
