

LOCAL GOVERNMENT FORUM

1. INTRODUCTION

- 1.1 The Local Government Forum ('the Forum') welcomes the opportunity to make a submission on the Local Government (Auckland Council) Bill. Overall, the Forum supports the Bill's intent and recommends that it should proceed – subject to specific comments in this submission.
- 1.2 This Bill provides for the governance structure of the Auckland Council, including:
 - The high level framework for the structure of the Auckland Council – 8 members elected at large and 12 members from wards, and in the order of 20-30 local boards including their high level functions.
 - Direction and provision of powers for the Local Government Commission to determine the boundaries of the wards of the Auckland Council and the Local Boards, and the number of boards and their membership.
 - Providing powers and functions for the Local Government Commission to develop a reorganisation scheme for the partition of the Franklin District and the Franklin District Council between the Auckland Council and the Waikato District Council.
- 1.3 This Bill is one part of the Government's legislative agenda to reform Auckland governance. The changes to Auckland governance are in turn an important part of the Government's wider plans to reform local government.
- 1.4 Local government is a vitally important institution but New Zealand's economic performance has been falling well short of the level required to achieve an increase in per capita incomes relative to Australia and the OECD median. The Local Government Forum therefore supports reforms, such as those to Auckland governance, to improve the efficiency and effectiveness of local government. While improved governance arrangements are a commendable first step, the Forum believes that much work remains if local government is to contribute fully to lifting the economic performance of the country.
- 1.5 Section 2 of this submission discusses general comments on Auckland governance and section 3 discusses the Bill's key provisions.
- 1.6 The Forum also acknowledges separate submissions made by individual members.

2. GENERAL COMMENT ON AUCKLAND GOVERNANCE

- 2.1 More than two years ago, and prior to the establishment of the Royal Commission on Auckland Governance, the Local Government Forum's 2007 publication, *Democracy and Performance: A Manifesto for Local Government*, had the following to say about Auckland governance:

“Governance arrangements in the Auckland region remain a concern. Commentators commonly highlight the following key problems:

- Decision-making processes in relation to activities that extend beyond one district particularly relating to transport planning, roads and public transport services, are difficult and inefficient. These activities may involve central government agencies, territorial authorities, the Auckland Regional Council and its subsidiaries, various coordinating bodies and private service providers. Wholesale water and wastewater services are also supplied on a regional basis, but governance issues in relation to those services are far less problematic than for transport.
- Very substantial expenditure growth has been foreshadowed in the relevant long-term council community plans. In addition, there is a massive funding gap between the Auckland Regional Transport Authority’s plan for public transport, which include electrification of the suburban rail network, and the funding provision that has been made in the Auckland Regional Council’s long-term council community plan. Ratepayers may be unwilling to bear future rate increases.
- Certain so-called ‘regional’ amenities, such as the Auckland City Art Gallery and Auckland Zoo, are currently provided and funded by Auckland City. Auckland City argues that other councils in the region should help fund those amenities and a range of organisations or activities that it also subsidises. Other councils in the region also provide facilities that arguably service the region.
- Some 11 organisations or activities would be funded on a regional basis if a planned private bill were passed by Parliament. Examples include the: Auckland Philharmonic Orchestra, Auckland Rescue Helicopter, Auckland Theatre Company and the Coastguard Northern Region. The Museum of Transport and Technology and Auckland War Memorial Museum are presently funded on a similar basis to that proposed for the 11 organisations.
- The perceived inability of the Auckland region to speak with one voice. The government is reported to be frustrated by the divergent views expressed on Auckland issues by elected local government representatives in the Auckland region.”¹

2.2 Given the problems with existing governance arrangements, the Forum generally supports the thrust of the Government’s response to the Royal Commission on Auckland Governance.

2.3 However, the Forum notes that ‘function’ as much as ‘form’ is critical for improving governance. *Democracy and Performance* mentioned this and emphasised that a clear distinction should be drawn between those functions and activities that are region-wide in nature and those that relate to a single district. It also stated that the principle of subsidiarity² should apply and there should be no presumption that bigger local authorities are necessarily more efficient.

¹ *Democracy and Performance: A Manifesto for Local Government*, Local Government Forum, February 2007 (see pages 36-37).

² **‘Subsidiarity’** is an organising principle that matters ought to be handled by the smallest, lowest or least centralised competent authority. The Oxford English Dictionary defines subsidiarity as the idea that a central authority should have a subsidiary function, performing only those tasks which cannot be performed effectively at a more immediate or local level.

- 2.4 The Forum therefore had concerns about the Royal Commission's approach of having a single authority with six 'local councils' beneath it. While agreeing that there are a number of functions that should be done on a regional basis by an entity such as the Auckland Council, there are equally a number of functions that should be done on a more local basis and that the six 'local councils' might be too large for many of these functions. We are therefore supportive of the Government's approach of having 20-30 'Local Boards' to carry out genuinely local functions.

3. SPECIFIC COMMENTS ON THE BILL

Functions of Auckland Council and Local Boards

- 3.1 The Forum considers this to be the most important issue to resolve. History has told us that governance and representation structures will not work without first getting right the roles and responsibilities of the respective tiers of local government in Auckland.
- 3.2 Generally speaking, Auckland Council functions should be those that have Auckland-wide application while those that do not have application across Auckland should be the responsibility of Local Boards.
- 3.3 However, the proposed model allocates few functions to Local Boards and little by way of revenue raising power. The average Local Board is likely to service around 40,000-70,000 residents, making them larger than many existing territorial local authorities. However, despite their large size they will be dependent on the Auckland Council for service delivery, staffing, and funding and because of this dependency, the Forum is concerned that the Local Boards could become little more than parochial lobby groups paid for by ratepayers generally.
- 3.4 The Forum suggests that Local Boards should have meaningful functions. We have done some thinking on the functions we think should be the responsibility of Local Boards and those that should be the function of the Auckland Council. These are listed in an appendix to this submission. We accept that some of the Local Board functions listed in the appendix are 'grey areas' that could equally be done by the Auckland Council (e.g., planning applications, local road maintenance and construction, building consents, and environmental health control) but whatever the final 'cut', the Forum believes that the respective functions should be set out in legislation rather than being left for negotiation between the Auckland Council and each Local Board.
- 3.5 We also note that the functions listed in the appendix reflect existing council activities, including some that the Forum considers to be beyond the core roles and responsibilities of local government (e.g., economic development, promoting sport and recreation, etc).
- 3.6 If there is a wish for either the Auckland Council or a Local Board to go beyond these functions then the decision should be a matter for relevant ratepayers to determine through referenda.
- 3.7 Recommendation: the functions of the Auckland Council and the Local Boards should be set out in legislation and the Local Boards should have meaningful functions.**

Funding and Rating

3.8 The Forum is concerned that the way local government is funded means that the majority of residents do not face the full cost of services provided while costs fall disproportionately on the minority, particularly businesses and farms. The result is democratic inefficiency and if this problem is not addressed then the best will in the world to improve governance structures will fail to deliver good governance outcomes. The Forum therefore supports reform of local government funding, as set out in *Democracy and Performance*:

- “The core activities that councils can undertake would be enumerated in legislation governing local authorities.
- Councils should be required to obtain the explicit consent of affected taxpayers before undertaking significant activities that extend beyond their core business. The principle of consent would usually take the place of the benefit principle in determining the funding of council activities. The benefit principle was emphasised by some councils following the implementation of the Local Government Amendment Act (No3) 1996. It is impossible to apply rigorously in most cases because councils cannot determine who ultimately benefits from council services.
- The general rate would continue in the meantime to be the main tax available to raise revenue for councils. Councils would be permitted to apply an additional rate to a subset of ratepayers to fund a particular project (or projects) or a significant activity (or activities) provided that affected ratepayers consented to the additional spending before it was committed. Targeted rates would be permitted on a similar basis.
- Councils would also be permitted to apply a lower general rate to all ratepayers in a defined area where clearly specified services available to ratepayers in general were not available to those in the affected area (for example, services available to rural ratepayers and ratepayers on islands).
- Councils would continue to apply uniform annual charges with the current 30 percent cap removed.
- The power of councils to impose financial and development contributions should emphasise efficient pricing (for example, where contributions relate to services that developers elect to use) and taxing principles (where charges are compulsory and unrelated to the particular services supplied to the developer).
- All government-owned land used should be rateable.
- Councils should be required to supply ratepayers with an itemised rates demand.”³

3.9 Turning specifically to the provisions in the Bill, the Forum considers it important that those making decisions for the spending of money also raise the revenue required to pay for it. If decisions can be made by a Local Board and then funded from the Auckland Council’s budget, then it is clearly in the interests of the Local Board to spend as much money as it can. Furthermore, even if the flow of funds is limited in some way from the regional to the local level (i.e., bulk funding, as has been proposed), then Local Boards will still be strong spending advocates. As each Local Board seeks to consume more of the Auckland Council’s revenue than they are required to pay, there will be the potential for a general inflation in the level of rates.

3.10 Only when government bodies are held responsible for setting and collecting rates and expenditure will there be adequate checks on their capacity to spend. The rates set by Local Boards could be collected on their behalf by the Auckland Council, but it is most important that the resident knows which portion of rates goes to the Local

³ *Democracy and Performance: A Manifesto for Local Government*, Local Government Forum, February 2007 (see page 32).

Board and which portion goes to the Auckland Council so they can be held accountable for their spending.

3.11 Recommendation: Local Boards should fund their activities through their own revenue.

3.12 If the Auckland Council is to be the only rates setting body (as currently proposed) then it would be imperative that Local Board activities are funded by targeted rates (NOT the Auckland Council's General Rate or similar revenue raised beyond the Local Board's territory) and that ratepayers receive detailed itemised rates assessments so they can see how much they are paying for council services.

3.13 Recommendation: Local Board activities should be required to be funded through targeted rates.

Structure of the Auckland Council

3.14 The Forum supports the governing body of the Auckland Council comprising a Mayor and 20 members.

3.15 The powers being proposed for the Mayor under clause 9 of this Bill will be substantially greater than for mayors of other local authorities. The qualities of the Mayor will therefore be vitally important for the running of the Council.

3.16 With regard to the Mayor, the Forum agrees that the Mayor should be elected by the electors of Auckland as a whole. We also agree that the Mayor should be able to establish and maintain an appropriately staffed office. We are neutral on whether the Mayor should be able to appoint a Deputy Mayor or the chairpersons of each committee but we question how the proposed arrangements might impact on the accountabilities and the relationships between the Council's Chief Executive, the Mayor, and the Council and how any conflicts might be resolved.

3.17 With regard to the election of the 20 members we can understand why it has been proposed to elect eight of the members 'at large' and the remaining 12 elected from 12 wards. The Forum is concerned that each of the 12 ward councillors would be expected to represent more than 100,000 people on average, which would be much more even than an electorate Member of Parliament, each of whom represents around 60,000 people. The implications for rural or geographically distinct communities (e.g., Hauraki Gulf Islands) could be particularly acute.

3.18 However, the Forum agrees with both the Royal Commission and the Government that a totally ward-based approach would run the risk of parochial interests predominating and we note that the Local Boards will also provide additional representation. We therefore support the currently proposed 8:12 split but would accept a variation on either side.

3.19 The Bill provides for a single electoral system without the special Maori representation proposed by the Royal Commission. The Forum supports the Bill in this respect and we note that none of the current Auckland local authorities has chosen to have special representation for Maori.

Structure of the Local Boards

- 3.20 The Forum has no view on the number of Local Boards or on their boundaries, except to say that the Local Boards should reflect communities of interest and that there should be no minimum (or maximum) size. Decisions on the detail should be left to the Local Government Commission to determine after consultation with local communities.
- 3.21 We are concerned though about the ability of the Commission to reflect community wishes due to the impact of the Local Electoral Act's strict representation criteria, particularly the +/- 10% population quota. We therefore support clause 19(7) of the Bill, which will provide the Commission with discretion to define wards and subdivisions and distribute members in a manner inconsistent with this quota in order to ensure effective representation of communities of interest.
- 3.22 With regard to the Local Boards' status, the Forum believes there might be merit in the Committee considering whether they should have the status of local authorities. The need for them to have meaningful functions and for them to raise their own revenue would point towards them being more independent.

4. COUNCIL CONTROLLED COMPANIES FOR WATER AND ROADING

- 4.1 This Bill does not cover council controlled companies, although clauses 23 and 24 mention Watercare Services Ltd. These clauses will insert a new section 30A into the Local Government (Auckland Reorganisation) Act 2009 to make Watercare responsible for planning and integrating water and wastewater services in Auckland, with Watercare to also become the provider of water supply and wastewater services.
- 4.2 The Forum believes that water services are primarily private good activities that should be provided on a commercial basis (like other network infrastructure such as electricity and telecommunications), and we note that this can occur under local government ownership. We are comfortable with Watercare being responsible for oversight of council-owned water services but we see no good reason why it should also be the sole provider of water services or why private sector operators should not be able to provide urban water services, for example.
- 4.3 Although not matters covered by this Bill, the Forum is also interested in the development of issues relating to whatever regime applies (e.g., volumetric pricing, minimum prices, restrictions of dividends, etc). We believe that council-owned businesses should generally be operated on a commercial basis. Water services should be priced appropriately to encourage efficiency and to discourage waste, and the opportunity cost of capital should be taken into account when making investment decisions.
- 4.4 The governance arrangements for roading and transport will also be very important – in fact, it is probably one of the most important issues to resolve. Although not a matter for this Bill, the Forum would favour a stand-alone transport entity (including both state highways and local roads) jointly owned by the Crown and Auckland Council and overseen by a board whose members are appointed on the basis of expertise in transport infrastructure, governance, and delivery, and not subject to political interference or electoral cycles. The Forum therefore does not favour

roading and transport being run through a department within the Auckland Council or a council controlled company of Auckland Council.

- 4.5 The Forum acknowledges that the arrangements for water and roading are issues beyond the scope of this particular Bill but we seek to draw them to the Committee's attention as important issues that it will need eventually to consider.

5. CONCLUSION

- 5.1 Auckland's performance is critical for the economy as a whole and getting Auckland working efficiently and effectively will be very important if we are to achieve the goal of closing the income gap with Australia. The Local Government Forum generally supports the thrust of Government's proposals but the test of success (and whether the model could be applied elsewhere) will be in the transition and implementation and whether we get right the functions and funding as well as the form.

6. ABOUT THE LOCAL GOVERNMENT FORUM

- 6.1 The Local Government Forum comprises organisations that have a vital interest in the activities of local government. Its members include Business New Zealand, the Electricity Networks Association, Federated Farmers of New Zealand, New Zealand Business Roundtable, New Zealand Chambers of Commerce, and New Zealand Retailers' Association. The Forum was established in 1994 to promote greater efficiency in local government and to contribute to debate on policy issues affecting it.
- 6.2 Forum members are each significant representatives of ratepayers in their own right but the Forum's perspective is to advance community welfare through the advocacy of sound public policy. We believe that local government can best serve the interests of the community and ratepayers by focusing on the efficient provision of public goods at a local level.

Appendix One: The Functions of Local Boards

Local Policy-making Functions	Local Service Delivery Functions	Local Engagement Functions
<ul style="list-style-type: none"> • Input into regional policy making • Dog control policy • Gambling policy • Liquor licensing • Brothels – control of location and signage • District promotion 	<ul style="list-style-type: none"> • Planning applications • Local road construction and maintenance • Street lighting • Footpaths, cycleways, walkways • Graffiti removal • Resource consents • Building consents • Environmental health control (food premises licensing) • Animal control • Local parks • Recreation centres • Community centres • Cultural venues • Litter control • Public toilets • Camping grounds • Crime prevention • Artworks • Citizens Advice Bureaux • Local art galleries and museums 	<ul style="list-style-type: none"> • Identifying the needs of the community • Supporting local groups through grants • Considering what form of service delivery is appropriate (e.g., complete contracting out to private sector, or direct employment to fulfil responsibilities).

Appendix Two: The Functions of the Auckland Council

Auckland-Wide Policy-Making Functions	Auckland-Wide Service Delivery Functions	Auckland-Wide Administrative Services
<ul style="list-style-type: none"> • Transport planning • Economic Development • Environmental Planning <ul style="list-style-type: none"> ◦ Policy Statement ◦ Coastal, air, water controls ◦ Hazard management • Recreational planning • Regional parks • Other regulatory matters 	<ul style="list-style-type: none"> • Civil defence • Promoting sport and recreation • Biosecurity • Harbourmaster • Arterial road construction and maintenance • Water, wastewater, stormwater drainage • Solid waste management • Zoo • Regional parks • Regional facilities for sports and culture • City centre and waterfront • Regional library • Cemeteries and crematoria 	<ul style="list-style-type: none"> • Prepare annual financial plans • Make and administer rates for Auckland Council • Provide shared services as agreed between Auckland Council and Local Boards • Asset and liability management • Public information services • Inform Local Boards on matters affecting Auckland Council functions