



Papakura District Council

Submission to the Auckland Governance Legislation
Select Committee on the Local Government (Auckland
Council) Bill

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Papakura District Council wishes to appear before the Committee and have the Mayor, Calum Penrose and Deputy Mayor, Peter Goldsmith speak to this submission.

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Topic: Local Government (Auckland Council) Bill

Introduction

The Local Government (Auckland Council) Bill does not reflect the position of the Papakura District Council on Auckland governance as set out in its submission to the Royal Commission. We oppose the Bill and consider the proposals do a disservice to the Auckland community. We have always supported the need for strengthened regional governance but consider the “local” must remain in local government.

However, given that the legislation is now in process, the Council wishes to raise a number of issues for the Committee’s consideration.

The key points of this submission are:

- Papakura has its own identity which is of long standing; Papakura does not support the SuperCity model of governance
- The Bill and its related legislation are being considered using poor process
- The Local Government Commission must consult with the public when determining boundaries of ward and boards
- The Auckland Council Mayor should be elected at large, using STV
- The Mayor should be able to appoint their deputy Mayor and Mayoral office staff but not other committee chairs
- The Auckland Council should have 30 members and all Auckland Councillors should be elected from wards
- Maori representation should be included in this legislation and should replicate Papakura’s arrangements with Mana Whenua
- Local Boards should be called Community Councils, should be fewer in number (12-15) so that they have sufficient scale to be effective, should have clear, mandated and funded roles and functions, including local decision making, so that they share governance with the Auckland Council.
- Local Boards should be adequately bulk funded and should be clearly connected to the Auckland Council with ward and board boundaries being aligned.
- Papakura should be a Board/Community Council area but this area should extend to the east and south of the current district boundaries if the requirement is for an expanded area.
- The southern boundary of the region needs to encompass the Hunua, Whakatiwai and Waharau Regional Parks.

The following table summarises the amendments sought to the Bill.

Clause	Provision	Amendment
8	Auckland Council to comprise Mayor Elected at large and 20 Councillors: <ul style="list-style-type: none"> • 8 elected at large • 12 elected by ward 	Mayor to be elected using STV All Councillors to be elected by ward Council to have at least 30 members
	No provision for Maori Representation	Include requirements for Relationship Forum supported by Partnership Agreement and funded work programme; Appoint Maori to key decision making committee; Fund the relationship
9(3)(b)	Mayors powers to appoint Committee Chairs	Remove power of Mayor to appoint Committee Chairs
9(3)(c)/9 (4)(a)	Mayors power to establish appropriately staffed office, in consultation with and acting through, the Council's Chief executive	Amend so that Mayoral Office staff not appointees of the Council CEO.
10 (2)	Role of local boards	Amend to include: <ul style="list-style-type: none"> • Shared governance of (the Board area) with the Auckland Council • "To make local decisions in line with agreed Community Actions Plans and other Auckland strategies, policies and plans"
13 (1) (c)	Local boards to reach agreement with the Council on funding arrangements in local area	Amend to make clear that boards will be adequately bulk funded and have discretion to make decisions within the local funding agreed.
18(3)	In making a determination LGC may make investigations and consult but is not required to consult	Amend to require that the LGC consults on all representation arrangements
19(3)(a)	LGC to determine the number and boundaries of local boards so that: <ul style="list-style-type: none"> • There are no fewer than 20 and no more than 30 	LGC given the discretion to determine the number of local boards to: <ul style="list-style-type: none"> • Ensure fair and effective representation • Enable local decision making to be made locally • Ensure local boards are of

		<p>sufficient scale to effectively undertake their functions and duties and that engagement with the Auckland Council is meaningful and productive</p> <ul style="list-style-type: none"> • Number of boards to be 12-15 • Papakura to be an identified Board area which, if it is to be extended, should extend to the South and East.
18(2)	<p>Amends the southern boundary of the Auckland region and transfers the following areas to the Waikato district and region:</p> <ul style="list-style-type: none"> • Mangatawhiri River and Mangatangi Stream catchments and • That part of the Franklin District situated between the Mangatangi Stream catchment and the Firth of Thames 	<p>That reference to the Mangatawhiri River and Mangatangi Stream catchments and the part of part of the Franklin District situated between the Mangatangi Stream catchment and the Firth of Thames b3e deleted from the Bill.</p>

This submission also highlights the importance of other issues which should be highlighted in the current Bill but which more detailed provisions will be needed in the drafting of the Third Bill to be introduced later this year. These matters include:

- The detailed roles and functions of local boards particularly with respect to sharing in the good governance of Auckland
- The relative roles to be played by the Auckland Council compared to the local Council, function by function
- The connective mechanisms between local boards and the community and the Auckland Council.

Papakura District History

Papakura District Council was set up during the 1989 amalgamation process and incorporates the former Papakura City Council and parts of the former Franklin District (part of the Drury area) and parts of the former Manukau City (the Takanini/Conifer Grove area). Papakura has existed as a municipal identity since 1938 but the town has been in existence since the mid- nineteenth century.

The current Council was established with four wards – Drury, Ardmore, Pahurehure and Redhill and with a Mayor and twelve Councillors. The representation was reduced to eight Councillors for four wards at a Council initiated review.

The District grew slowly through the 1990's and early parts of the current decade but that has seen a dramatic shift in the last five years as Papakura has two of the major greenfields development areas provided for in the Regional Growth Strategy. The population still reflects its predominant bi-cultural history with ethnic breakdown at the last census including 27% Maori and 61% European but other ethnic groups were registering in stronger numbers than in the previous census.

As a result of this history, Papakura District has a strong identity and, while part of the wider Auckland region, many of our residents do not strongly associate with the Auckland CBD or the northern and western areas of the region.

Governance of the Auckland Region

Papakura District Council has consistently supported the need for strong regional governance. Since 2006, we have been an active participant in the process of identifying ways to strengthen the region. We supported the concept of a strengthened regional organisation with direct responsibility for functions which require regional funding and decision making. Our submission to the Royal Commission recommended a change to the second tier of governance so that there was a relative “de-powering” especially of the larger Councils to ensure that the competition between the tiers was removed. Papakura District Council did not support the idea of a so-called “Super City” because we considered it was very important to keep the local in local government. To us this meant local decision making backed with the power to raise the funding needed and to be directly accountable, through the ballot box, to the local community.

Papakura District Council does not support the governance approach outlined in the current Bill and has had very strong feedback from the Papakura Community in opposition to the Super City. It is clear in this feedback that people are concerned at the loss of local decision making, are concerned at the potential for a loss of identity and are confused about what the proposals actually mean. This level of concern led to a public meeting of 1000 local people on a cold and wet Monday evening wanting to understand what was being done to their town. It is also why, in a poll conducted across the region regarding support for the “ Super City”, only 18% of Papakura people voted yes and 45% voted no. In the same survey 91% said that consultation had been inadequate.

Process Issues

The Bill and its companion piece, the Local Government (Tamaki Makarau Reorganisation) Act 2009, are key steps in the implementation of radical change to local government in Auckland. The Government's decisions on Auckland Governance were announced on the 7th of April. The Bill was introduced into the house on the 13th of May and has been publicly available for a bare five weeks. The submissions process and timeline was not made public until Tuesday, June 2. The draft legislation was not supported with a position paper and much of it at odds with the analysis contained in the report of the Royal Commission. This

has left Councils and the community with barely a month to seek to understand the legislation and to prepare submissions.

At the time of preparing this submission, it is still unknown what, if any, opportunity there will be to engage with the Select Committee directly. This process is at odds with the statements being made by the Government that the people of Auckland will have their chance to have their say through the Select Committee process. This is poor process for major change and is much less robust than the consultative processes that are imposed on Local Government when Councils make any major decisions.

In this same vein, the provisions within the Bill relating to the Local Government Commission's boundary setting roles, appear to mean that it is not obliged to consult on boundary issues. It is Papakura District Council's submission that all boundary proposals should be the subject of a consultative process open to the public.

Governing Body of the Auckland Council

Notwithstanding that Papakura District Council does not support the governance approach in the Bill we have a range of comments regarding the details.

Council supports the proposals that the Mayor to be elected at large and propose that the Mayor be appointed using the Single Transferable Voting system. It is vital to the whole proposal that a strong Mayor has the mandate of the people of the Region. FPP voting has led to situations where a local Mayor has only received 20% of the vote. We support the Mayor having the power to appoint the Deputy Mayor. We do not consider the Mayor should have the power to appoint the Committee Chairs as this could be destabilising to the routine work of the Council. We consider that the cap on electoral spending for the Mayor will need to be raised for this new expanded position. We support the Mayor having the power to propose a draft LTCCP and annual plan so long as the current consultative requirements around the LTCCP and annual plan remain in place.

We support the Mayor being able to establish an appropriately staffed office but consider that the relationship of these staff with the Chief Executive should be made explicit. The intention appears to be a change to the current position in the Local Government Act 2002 which makes the Chief Executive the sole employer of all Council employees. At best, the provisions in the Bill with respect to the staff of the Mayoral office are ambiguous. We support that the Mayor is able to hire staff and that these staff are not subject to the directions of the Chief Executive. It is important that this system change is clear.

The Council does not support the governing body of the Auckland Council being restricted to 20 members plus the Mayor nor do we support the proposal that only 12 of these members be elected from wards. The representation ratio with a Council comprising 20 Councillors is approximately 65,000:1. If only 12 of these Councillors are elected on a ward basis the representation ratio is around 108,000:1 The Auckland Council is responsible for "local" government. The representation ratio for parliamentary electorates in central government is lower at around 67,000:1.

The Local Electoral Act 2001 provides for membership of territorial authorities to consist of not fewer than 6, nor more than 30 members, including the Mayor. The Auckland Council

will be the largest Council in this country under any likely foreseeable arrangement. Surely this Council should have the largest number of representatives and should be at least a full Council of 30 members.

We also consider that all Councillors should be elected on a ward basis. At large elections have two problems: only the wealthy can afford to campaign across the whole region and at large elections will tend to reinforce the “celebrity” candidates where profile is more relevant than competence. The concern expressed in the Government’s statements that some at large Councillors are needed to ensure there is a regional focus reflects a concern that is more imagined than real. The current regional councillors are all elected based on wards but there is no parochialism apparent in the decision making of this Council. On the contrary, the Auckland Regional Councillors, because of the extremely high representation ratios, are largely remote from the local community.

Maori Representation

The report of the Royal Commission recommended that the Auckland Council include three reserved seats for Maori; two to be elected by voters on the Maori Roll and one to be appointed by Mana Whenua. In its decisions on Auckland Governance, the Government announced it would not be including any reserved seats for Maori and this is therefore the position in the Bill before the Committee.

The relationship with the Maori Community and active engagement of the Maori Community in the Council’s decision making practices has been important to Papakura District Council almost since its inception. For many years a Maori Standing Committee formed part of the Council structure. This Committee included a majority of members appointed from the Maori community as well as elected Council members. This committee was advisory in nature and the Maori members were appointed to represent the interests of taura here Maori. This committee did not represent the interests of Tangata Whenua.

With a more developed understanding of the Treaty of Waitangi, and the partnership between two parties of equal status, for the last four years a new governance forum has been established between Mana Whenua and Council to consider issues of mutual interest. Te Roopu Kaitiaki o Papakura has four Council appointed members, including the Mayor and Deputy Mayor and up to ten Mana Whenua members representing five iwi and hapu who have interests in the Papakura District. Decisions of this Forum are made on a consensus basis and the minutes of the meetings are received by the Council.

To support the governance role of this Forum, officers of each iwi and hapu represented on the Forum have been allocated office space and facilities by Council to support the achievement of a joint Council and Mana Whenua work programme. This arrangement is documented through a performance contract which includes an annual work programme and performance measures. In return, Mana Whenua officers have developed an approach which is unique in the Auckland region, where the iwi and hapu meet as a collective and provide a collective response on Council issues.

The other element of this arrangement is that the Council appoints representatives of Mana Whenua and the Maori community to its key decision making body, the LTCCP Committee.

All of these arrangements have funding allocations which ensure the Maori representatives receive appropriate compensation.

These detailed arrangements provide a sustainable and highly effective approach to ensure that Maori are included in the decision making processes of the Council. It is Papakura District Council's submission that these same arrangements should be replicated for the Auckland Council. The requirement for the Auckland Council to have arrangements of this nature needs to be included in this legislation as they are part of the broad governance arrangements including the funding provisions. The detailed provisions should be included in the next Bill.

Local Boards

The two tier governance structure proposed for the Auckland Council is one of the more striking differences between the recommendations of the Royal Commission and the decisions made by the Government. An all-powerful Auckland Council and a collection of largely powerless local boards who will, in some as yet to be described way, influence the decision making of the Auckland Council is a model that appears destined to deliver sub-optimal governance. The Royal Commission envisaged a model where governance responsibilities were shared, with the Auckland Council focussed on regional matters and the local councils focussed on local matters. If there was disagreement on the boundary of these matters, the Auckland Council clearly had the power to make the final call. From an administrative viewpoint, if local boards are not empowered to make a wide range of decisions, either the Auckland Council will become mired in minutiae or a very wide range of decisions will need to be made by unelected officials under delegation.

The Bill requires the establishment of local boards for the purposes of

- (a) Enabling democratic decision making by, and on behalf of, communities within the local board area; and
- (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.

The Bill then goes on to propose the role of the Board to therefore be

- (a) To represent, and act as an advocate for, the residents and ratepayers of the local board area, and
- (b) To make representations about matters affecting the local board area; and
- (c) To exercise the powers and perform the functions and duties described in section 13.

Note: The powers and functions in section 13 are either advocacy functions or, as yet, unspecified matters which will be delegated by the Council.

The Bill gives the Local Government Commission (LGC) the power to determine the number and boundaries of the local boards within the Auckland region but specifies that there should be no fewer than 20 and no more than 30 local boards.

The Government has stated that local boards are intended to be entities that have more power and effectiveness than community boards – or, as the Papakura MP put it “they need to be more than a “tea and scones” club. The place-making role of the second tier of local government was also heavily emphasised in the Royal Commission’s report and this implies a situation where local communities have a strong influence on the things that matter to them

In prescribing the number of boards but providing little guidance on the boards’ powers and functions, the Bill does not follow the “best practice” organisational design principle, “form follows function”. In fact, as currently framed, the boards’ role appears to be little more than advocacy, despite the stated purpose of the boards being to enable democratic decision making by and on behalf of (local) communities.

Papakura District Council submits that it is imperative that local boards are given clear, mandated, and funded roles and functions that include shared governance through local decision making. They must be empowered to make decisions on things that are important to and impact on local communities. A paper prepared for the Chief Executives of the region has helped shape this Council’s thinking on this matter and is attached for the information of the Committee. This paper includes a discussion on Community Action Plan which we see as a key mechanism through which agreement is reached between local boards and the Auckland Council on the agreed local work programmes and funding. This Community Action Plan could also then be used as the authorising document within which local boards make local spending decisions.

The paper also illustrates how to approach the demarcation of the roles of the Auckland Council and the local boards across a broad range of functions. Although arrangements such as these might be implemented through delegations from the Auckland Council to local boards, Papakura District Council submits that these choices are fundamental to maintaining the “local” in local government. Accordingly, it is imperative that this is not left to the will of future Auckland Councils. Although the details of these functional splits might be better placed within the next Auckland Governance Bill, the principles should be included in the current legislation to provide certainty to the community and clarity to the LGC about the role and functions of local boards.

Accordingly, Papakura District Council submits that it needs to be explicit that there is a decision making role for local boards in line with the regional framework and that the following needs to be included within the statement of that role:

“To make local decisions in line with agreed Community Actions Plans and other Auckland strategies, policies and plans.”

With local boards making decisions, matters of efficiency and effectiveness of operation are a potential issue. At present, the LGC must determine the number of local boards to ensure there is appropriate representation for communities of interest. While Papakura District Council agrees with this parameter, it is also desirable that the LGC is empowered to consider the scale of local boards.

Given the roles and functions that are desirably undertaken by local boards, Papakura District Council considers that 20-30 local boards is too many. If there are too many boards

the scope for decision making is likely to lessen and it is also likely to pose difficulties for the Auckland Council to support and ensure meaningful engagement with each board. The opportunity for each Board to hold the Auckland Council to account and to influence the Auckland Council will be diluted as the number of boards increases. While the Government states that the larger numbers of boards is intended to provide for effective grassroots democracy, this will not be effective if the ability to influence decision making is lost.

Papakura District Council submits that the LGC should determine the number of boards from a lesser range, between 12 and 15, and the Bill should be amended to ensure that the LGC ensures that each local board is of an appropriate scale to make a broad range of local decisions. Although the boundaries of the boards are to be finally determined by the LGC, it is the Council's submission that, as Papakura has been established as a separate municipality for such a long time, it should be regarded as a community of interest in its own right. If the scale of the Papakura area is seen to be too small, the current district area should be expanded to include land to the south and east of the District.

Funding

For Local Boards to be effective entities and for the community they represent to consider they are real decision makers, they will need to hold budgets which are of sufficient scale to allow them to deliver on the agreed community action plans. While this may be the intention of Clause 13 (1) (c) "to reach agreement with the Council in respect of service levels, local facilities and funding arrangements within its local board area" this should be strengthened to make it clear that boards will have discretion to make decisions within the local funding agreed. One way of making it clear that there is such discretion is to require the Auckland Council to adequately bulk fund the Boards and to enshrine this requirement in legislation.

Connecting the Community, Local Boards and the Auckland Council

Within the Bill there are several statements that imply that the local boards will help connect the local community and the Auckland Council. It is Papakura District Council's view that this will be a key role for local boards and the high level mechanisms should be provided for in this legislation. AS part of the design of the governance system, it is important for connectivity that the wards from which the Auckland Councillors are elected align with the local board boundaries. It may be that these wards should have multiple members as well. Within the paper attached, we favour the idea of Auckland Councillors being ex-officio members of local boards in their ward areas and of the Chairs of local Boards being given speaking rights at Auckland Council committee meetings when issues of mixed local and regional interest are being decided.

Title of Local Entities

Papakura District Council supports the second tier of Auckland governance being given the title "Community Councils" rather than local boards. This name is a better reflection of the role that is intended for these entities.

Southern Boundary of the Auckland Region

Clause 18(2) of the Bill states that the southern boundary of the Auckland Region should, as closely as practicable, follow the existing southern boundary of the Auckland region, with the exception that the following areas must, as far as practicable, be excluded:

- Mangatawhiri River and Mangatangi Stream catchments and
- That part of the Franklin District situated between the Mangatangi Stream catchment and the Firth of Thames.

The Bill proposed that these areas should be excluded from the Auckland region and be included in the Waikato district and Waikato region.

Papakura District Council opposes this amendment to the southern boundary as the area to be transferred contains most of the Hunua Regional Park and all of the Whakatiwai and Waharau Regional Parks. These areas of these parks contain water supply dams which provide approximately 37% of the Auckland region's bulk water storage capacity. These parks are also important recreational destinations for many residents of the region. It is important that control of these assets remains where the effects of decisions are most felt and it is equitable that the Auckland region provides the funding for these assets.