

LOCAL GOVERNMENT (AUCKLAND LAW REFORM) BILL: SUMMARY AND SUBMISSION PROCESS

This report summarises the 3rd Auckland Bill.

Introduction

The Local Government (Auckland Law Reform) Bill (the '**Bill**') is the third (and final) bill required to implement the Government's decisions on governance arrangements for the Auckland region. The Bill further develops the legislative framework for on-going local government arrangements in Auckland and makes the necessary interim and transitional provisions for the operation of the Auckland Council from 1 November 2010.

The scope of the change to be achieved is significant and complex, with many organisations being disestablished and their staff and assets moved to new or different organisations. The timeframe for achieving the change is also extremely ambitious, with the new arrangements to be in place by 1 November 2010. These unique factors, and their combination, have resulted in a need for extensive supporting legislation to ensure that the Government's objectives can be achieved in the required timeframe.

Summary of the Bill

The Bill also sets out the detail for the Auckland Council to be able to operate effectively from its establishment on 1 November 2010, including:

1. The relationship between the Council's governing body and its local boards,
2. Arrangements for the management of transport and water supply and waste water services,
3. Provision for the development of a spatial plan for Auckland,
4. Arrangements for a board to promote issues of significance for mana whenua and Maori for Tamaki Makaurau,
5. Arrangements relating to the governance of council-controlled organisations (CCOs),
6. Provisions relating to development contributions,
7. Provisions relating to representation reviews,
8. Provisions to enable the establishment of the various new local government entities in Auckland,
9. Arrangements for the smooth transition of staff and assets to the new structures,
10. Preparation for local elections,
11. Clarity regarding planning and reporting arrangements for the period up to 1 November 2010,
12. Transitional planning, funding, and rating arrangements for the Auckland Council until at least July 2012, and
13. Consequential amendments to other legislation.

Most important issues

As noted above, the issues that the Bill addresses are significant and complex and there are many that are of particular interest to Council. The issues listed below are those that officers consider to be the most strategically important.

Local Boards

- Local Boards will be able to propose mechanisms to generate additional revenue to fund discretionary activities/initiatives in their area. For example, Local Boards will be able to propose a local targeted rate or local fees for local activities and amenities.

Council Controlled Organisations (CCOs) and other Council Entities

- The Government has agreed in principle to a CCO structure and governance framework consisting of the three CCOs already approved (Water Care Services Limited, The Regional Transport Authority and a Waterfront Development Agency) and four new CCOs (Economic Development, Tourism and Events; Property Holdings and Development; Major Regional Facilities; and Council Investments),
- The existing accountability framework for substantive CCOs will be enhanced by requirements for long term planning and a statement of intent (explaining how the CCO contributes to the Council and Government's wider objectives and priorities for Auckland)
- The Government rejected the concept proposed by the Royal Commission of an Auckland Services Performance Auditor. Instead, the Auditor General will be required to undertake regular service performance reviews of the Council and its CCO activities,
- Elected members of the Auckland Council may not be appointed to the Board of substantive CCOs, except for the Regional Transport Authority.

Water Regulatory Powers

- From 1 November 2010, Water Care Services Limited will be owned by the Auckland Council, and will deliver all reticulated drinking and waste water services in Auckland. Until 1 July 2012, Water Care will retain its current status as a Council Organisation, and from 1 July 2012 Water Care will become a Council Controlled Organisation of the Auckland Council. From 2015, the Auckland Council will be able to determine the governance arrangements and asset ownership for delivery of water services.
- The current legislative prohibition of Water Care paying any dividend to its owner will be retained as will be the obligation on Water Care to maintain prices at minimum levels consistent with effectively managing its assets.
- The current restriction on Water Care's rates liability will continue to apply to Water Care's water and waste water assets in Auckland, and will also apply to its assets in the Waikato (to be rated by Waikato District Council and Environment Waikato).

Transport

- A new CCO – Auckland Transport is established. Its objective is to undertake its functions in a way that contributes to an affordable, integrated, safe, responsive and sustainable land transport system for Auckland. The Act does not however mention Auckland Transport having responsibilities around integration with land use planning.

Planning and Rating Systems

- On 1 July 2012 there will be a single rating system across Auckland. There will be interim rating system through to 2012.
- An Auckland valuation roll as at 1 September 2011 is to be prepared in order to implement a single integrated Auckland Council rating policy from 1 July 2012. The valuation system for the initial valuation roll will be capital value. The introduction of the new rating system will be managed to protect rate payers, particularly those on low and fixed incomes, and small businesses, from any sudden or significant increases in rates. Existing Council rates remission and postponement policies will remain in force within the former areas until 30 June 2012.
- The scheduled 2010 revaluations for Rodney District and Waitakere City will be cancelled as they are deemed unnecessary.

Governance Framework and Elections

- The electoral expense limit has been increased so that mayoral candidates will be able to spend about \$580,000,
- There will be no reorganisation proposals for Auckland for three years to ensure there is no disruption to the new arrangements and they have the opportunity to settle in,
- First-past-the-post (FPP) will be used in 2013 for election of the Mayor, Councillors and Local Board Members in Auckland as in 2010,

Maori representation and participation

- The role of mana whenua (those with traditional authority in an area) and taura here (Maori whose traditional iwi ties are outside the area) in the governance of Auckland is set out in the bill, with the establishment of an independent statutory board. The statutory board will promote social, economic, environmental, and cultural issues of significance for mana whenua and taura here of Auckland to assist the Auckland Council in its decision making.
- There will be up to 9 members of the statutory board. Up to 7 will be mandated representatives of recognised mana whenua groups within Auckland and two taura here representatives appointed by the manu whenua Board. The statutory board will (among other things), be able to appoint persons to sit on Auckland Council committees, and in particular those that deal with the management and stewardship of natural and physical resources.
- The remuneration, expenses and operational costs (including a secretariat) of the board will be met by the Council and will be the subject of an annual funding agreement.

Pacific and Ethnic Participation

- A Pacific Advisory Panel (Council Committee) and Ethnic Advisory Panel will be established by legislation, for the first term of the Auckland Council. At the end of the first term of Council, the Pacifica and Ethnic Advisory panels will be disestablished.

Employment and Staff Issues

- In general, the process is fair and clear for staff and better than many have feared.
- The Bill provides for continuous service for leave and other entitlements for employees from existing Councils and CCOs who are either transferred or appointed to positions in the new Auckland Council/CCOs.
- Employees confirmed in a similar role will retain the same terms and conditions of employment, unless otherwise agreed. Kiwi saver arrangements transfer with staff members to whom they apply.
- The Bill provides for transfers of staff who have not been declared surplus, and arrangements for staff declared surplus, including redundancy payments.
- Union members who are, or will be, employed by the new employer will be deemed to be employees of the new employer for the exercise of all rights and duties associated with collective bargaining in a period up to 1 November 2010. This means that unions can initiate bargaining on behalf of those union members and that those union members are able to ratify any outcome.
- Where employees covered by an existing collective agreement move to more than one new employer, each new employer and its employees become party to a single employer collective agreement based on the original collective agreement those employees were covered by. This may result in one employer being party to a number of collective agreements.

Assets and Liabilities

- All assets and liabilities of the existing Auckland local authorities and their CCOs will transfer to the new Auckland Council on 1 November 2010, except where the Government has agreed to alternative arrangements in respect of specific CCOs.
- A statutory moratorium will be placed on the sale of shareholdings, land or buildings used or designated for service delivery, and other land and buildings with a value of over \$250,000 until the Auckland Council has completed an LTCCP process (1 July 2012).
- The moratorium does not apply to asset sales already programmed in the LTCCPs of existing Councils.

Spatial Plan

- The Auckland Council must prepare a spatial plan for Auckland that provides for the strategic direction for growth and development.

Interim Funding Methods

- The Auckland Council will not be exempt from the prohibition on borrowing in foreign currency, but this is to be reviewed once work on a Local Government Bond Bank is completed.
- The Bill clarifies the use and refund of development contributions required or collected under existing development contributions policies, and development contributions for water and wastewater.
- Development contributions for transport network purposes will be set, assessed, and collected by the Auckland Council and passed to the Regional Transport Authority.
- The Bill preserves non-regulatory fees and charges set by existing Councils until they are changed by the Auckland Council or a Local Board.

Transitional Arrangements

- Bylaws in existence at the abolition of the existing Councils will be transferred to the Auckland Council, for review within five years. Transport specific bylaws will transfer to the Regional Transport Authority.
- Policies of the existing Auckland Councils will become the policies of the Auckland Council and remain in effect for a maximum of five years in each existing local authority area, until the Auckland Council establishes new policies.
- The Waitakere Licensing Trust and Portage Licensing Trust elections will be held by FPP.
- The Bill provides for the transfer of RMA and waste minimisation responsibilities to the Auckland Council.
- Transitional provisions are made for the continuity of operations under the Building Act 2004, Civil Defence Emergency Management Act 2002 and the Forest and Rural Fires Act 1977.
- The Bill includes provisions to reflect the effective governance changes in Auckland Local, Private and Provincial Acts.

There are a considerable number of other provisions which are likely to require amendment.

Timeline and Process

On the 15 December the Bill was read in Parliament for the first time.

The closing date for submissions is 12 February 2010.

The Select Committee will begin hearings in Auckland in the week beginning 22 February 2010.