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## NZCID Submission on the Local Government (Auckland Council) Bill 36-1

The New Zealand Council for Infrastructure Development (NZCID) appreciates this opportunity to submit on the Bill in writing and confirms its desire to be heard in support of this written submission.

NZCID was one of a number of key organisations that led the call for reform of Auckland governance. In so doing NZCID sought a governance structure that provided for united leadership and implementation capability at the regional level balanced by strengthened community engagement, participation and influence at the local level.

NZCID supports the key elements of the reform package including:

- The establishment of Auckland as a single unitary authority
- The adoption of a two tier structure of a unitary council supported by 20 or so local boards
- The Auckland Mayor being elected by the electors of Auckland as a whole
- The role of the Mayor as set out in the Bill, but with some additional powers added
- The establishment of Local Boards, but with strengthened powers around planning and allocation of funding for the provision of local amenities and services

NZCID is strongly opposed to the retention of a middle tier of six councils as advocated by some submitters. We consider that the Government was correct not to uphold the six "local" councils proposed by the Royal Commission. On the one hand, the councils would have been far too large to truly represent local interests. On the other hand, demarcation issues between the Auckland Council and the six councils beneath it would inevitably have been problematic. The significant risk of such a structure was that it would exacerbate the very problems that exist today - competing councils undermining regional unity and common direction. Arguments over funding and strategic decision making are the very issues that have given rise to the need for governance reform. It is not the model to lead the Auckland region forward into the 21st century.

This submission sets out a series of amendments to the wording of the Bill that are designed to strengthen regional governance whilst enhancing community involvement and influence at the local level, a level where people feel they can influence decisions that impact on their everyday lives.

## Background Information about the New Zealand Council for Infrastructure Development

The Council was formed in 2004 to promote world class infrastructure development for the benefit of all New Zealanders, a goal we are committed to achieving by:

- Raising awareness of the fact that infrastructure underpins our community's quality of life and that inadequate infrastructure holds back New Zealand's economic, social and environmental development
- Generating valuable debate on the quality and level of infrastructure provision to meet New Zealanders' needs
- Encouraging the implementation of best practice infrastructure provision and management

NZCID is a non profit organisation. Members comprise over sixty of New Zealand's leading private and public organisations including infrastructure equity owners, financiers, constructors, service providers, public sector agencies, and major infrastructure users. Information on the Council, its members, policy and work can be found at [www.nzcid.org.nz](http://www.nzcid.org.nz).

### Consultation

In developing its policy positions, NZCID consults extensively with its member organisations, relevant stakeholders, central and local government, business and community interests, runs workshops and seminars on policy and undertakes independent research.

This submission has been developed as a result of extensive consultation by our organisation across the region. It represents the collective view of the NZCID membership as a whole. While some members will submit separately with their own views on specific matters of detail, we all share one common vision - that of a united Auckland supported by local boards in a structure that is generally consistent with that proposed in the Bill.

Not only did NZCID consult directly with our member organisations in the development of this submission, we also consulted widely across the region from organisations representing cultural interests, to social and environmental agencies, community leaders, Maori, educational institutions, sports organisations, those representing the Arts, history and culture and business organisations. As a result of this extensive and widespread consultation, significant improvements were made to our initial proposals in the formulation of our submission.

### Matters where amendment or additions to the Bill are sought

NZCID has identified a number of areas where it considers the Bill needs to be amended or enhanced to provide for better governance arrangements for New Zealand's largest city. The proposed amendments to the relevant sections of the Bill are shown in colour below, together with an explanation of the reasons for the proposed change.

## 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.~~
- (1) The governing body of the Auckland Council must comprise the Mayor and one member elected by the electors of each local board area in accordance with the Local Electoral Act 2001
  - (2) The Mayor must be elected by the electors of Auckland as a whole.
  - (3) ~~The members of the Auckland Council must be elected as follows:~~
    - ~~(a) 8 members elected by the electors of Auckland as a whole:~~
    - (b) 12 members elected on the basis of 1 member elected by the electors of each of 12 wards.
  - (3) The Mayor shall have a deliberative vote and a casting vote in the event that there is a tie in any decision on any matter made by the Auckland Council

### Explanation

The Bill provides for 12 members being elected from wards and 8 members elected at large. This is intended to provide a mix between local input in Council decisions (potentially, though not necessarily, represented by ward councillors) and wider regional oversight (potentially, though not necessarily, represented by councillors elected “at large”). It is argued that eight councillors elected at large might be less likely to be fettered by parochial interests, might be elected on the basis of specific expertise, and might provide improved support for the Mayor who will also be elected at large. However there is nothing to require that any of these particular outcomes will actually be achieved. Election of any council member is subject to political risk. The eight councillors elected at large may or may not possess any particular skills or attributes. Support the Mayor may or may not be any more or less than councillors elected from wards. (In fact it is likely that some will support the Mayor and some may not). Equally councillors elected from wards or elected at large may support local parochial interests and some may not. For these reasons having councillors elected at large is arguably of marginal benefit.

On the other hand, alignment of council elector wards with local board areas simplifies council structures and election processes. Electors will simply vote for one mayor, one councillor from their local area to sit on the Council and five local board members. There would also be consistency of representation at the local level through local boards, the regional level, through the locally elected Auckland councillor, and at the central government level, through the local Member of Parliament. It also addresses concerns about representation of Manua Whenua, as two of the seats on the Council would be elected from the two relevant Maori constituencies.

In order to redress concerns about Auckland councillors being captured by local interests, a new section (Section 10) below imposes a requirement on councillors to consider the needs of the region ahead of the needs of the wards from where they are elected.

The proposed amendment also provides for the Mayor's authority to be strengthened by the provision of a casting vote. Further provisions set out below are designed to strengthen the ability of the mayor to implement the vision and plan for Auckland.

## 9 Mayor of Auckland

- (1) The role of the 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.
- (c) monitor the performance of council controlled organisations

(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.

(3) For the purposes of **subsections (1) and (2)**, the Mayor has the following powers:

- ⊖ (a) to appoint the Deputy Mayor:
- (b) to appoint the chairperson of each committee of the Council and, for that purpose, may appoint himself or herself:
- (c) to appoint the chairpersons of council controlled organisations
- (d) to appoint directors of council organisations
- (e) to establish and maintain an appropriately staffed office of the Mayor.
- (f) to appoint advisory committees to provide independent advice and expertise

(4) The Mayor must exercise the power in subsection (3) (c-d) after having sought advice from the Crown Company Monitoring Unit on the suitability of the candidates for the roles for which they are being considered and after having consulted with the Auckland Council prior to the appointments being made.

(45) The Mayor must exercise the power in **subsection (3)(e)**—

- (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.

(56) The Mayor must not delegate any of his or her powers under **subsection (3)**.

(67) The Mayor is an ex officio member of every standing committee and subcommittee of the Auckland Council.

#### Explanation

As noted in the preceding section, it is desirable that the Mayor have sufficient authority to give effect to his/her vision and the plans that support it. Having the ability to appoint the deputy mayor, the chairs of relevant committees of the Council, council controlled organisations (CCOs) will assist the Mayor to achieve that purpose, whilst retaining sufficient checks and balances through representation of other members on the respective bodies who have not been appointed by the Mayor. The ability to appoint relevant advisory committees provides the opportunity for wider collaboration and advice from interested parties in the public, private, and non-profit sectors.

#### 10 Members of the Auckland Council

- 1) The role of members of the Auckland Council is to—
  - (a) act in the interests of Auckland as a whole in accordance with the requirements of the Local Government Act 2002

- (b) not to give preference to the interests of the area from which they are directly elected over the interests of Auckland as a whole

#### Explanation

The inclusion of this additional section is designed to make it clear that the role of Auckland councillors is to place the needs of Auckland ahead of the needs of the local areas from which they are elected.

#### **4011** 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
  - (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
  - (d) developing a three year local plan for the provision local amenities for the development of arts, culture, recreation and community services within the local board area which they serve
    - The local plan is subsidiary to and must be not inconsistent with the Council Long Term Council Community Plan
  - (e) allocating the local fund described in section 15 for the provision amenities and for the development of arts, culture, recreation and community services within the local board area which they serve in accordance with the local plan
- ~~(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~~
  - ~~○ (b) to make recommendations about matters affecting the local board area; and~~
  - ~~(e)~~ to exercise the powers and perform the functions and duties described in **section 1315**.

#### Explanation

The local plan process will enable local board members to stand for election and set the direction for investment in local services and amenities according to the mandate given to them by the local community at each triennial election. Thereby local electors will have the ability to influence the shape and form of their local area and to provide for unique services and amenities that are not ordinarily provided for by the Council. For example, South Auckland boards may choose to continue to support free local swimming pools as are currently provided by Manukau City Council, whereas other boards may choose to support specific cultural, sporting or community events or other initiatives. The plan and associated funding will empower local communities to reflect local flavour and express the wants and desires of the people in those communities. This will enable the Council to focus on the provision of core services across the city as a whole and be less distracted by applications by local boards for support of their local needs.

## 12 Funding for local boards

- (1) Five percent of the general rates collected by the Council shall be allocated and shared equally among the local boards and to be known as the local fund-
- (2) The allocation of the use of the local fund shall be determined by the local plan
- (3) In addition to the local fund, local boards may apply to the Council for a targeted rate to be collected by the Council from ratepayers in the local board area
- (4) Any such targeted local rate may only be used to fund initiatives included in the local plan

### Explanation

Five percent of rates would provide approximately \$3 million dollars per board area per annum. This is intended to provide the necessary funding for local boards to enable them to give effect to their plans.

## 11-13 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 Council.
- (3) A local board may not—
  - (a) acquire, hold, or dispose of property; or
  - (b) appoint, suspend, or remove employees.
  - (c) contract for the provision of services
- (4) All services provided as a component of the local plan shall be procured or delivered by the Auckland Council on behalf of the local board

### Explanation

Procurement of services and all relevant payment for services will be handled by the Council, but the local boards will determine the allocation of that funding.

Compare: 2002 No 84 s 51

## 1214 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)~~ shall be five
- (2) Members of a local board must be elected in accordance with the Local Electoral Act 2001.
- (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.
- (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)**, the Local Electoral Act 2001 applies—
  - (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).

### Explanation

Given that under the section set out below the boundaries of the local board areas will be broadly consistent with the general electorates, which are all of roughly equal size, there is no need for local boards to have different numbers of members.

### **1315** Functions, duties, and powers of local boards

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

### **1416** 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).

(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.

(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.

**16-17 Council to provide administrative and other facilities for local boards**

- The Council must provide the necessary administrative and other facilities for each local board to carry out its functions and perform its duties.

**17-18 Expenses of local boards**

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

**18-19 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.

(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):
  - (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
- (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 the **Schedule**.

(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
- (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
- (b) some provision of the determination is no longer relevant or appropriate to the intention of the determination.

(5) Despite **subsection (4)**, 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*.

(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)

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

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

#### 19-20 Determinations of Local Government Commission (other than boundaries of Auckland)

- (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~~
  - (ba) the number and names of local board areas within Auckland; and
  - (eb) the boundaries of—
    - (i) each local board area; and
    - (ii) electoral subdivisions, if any, of each of those areas; and
- whether the Rodney and Franklin Districts ought to be included within the Auckland Council area.

#### Explanation

The question of whether Franklin and Rodney Districts should be included in the Auckland council area has been the subject of considerable debate. Given that large parts of these districts are predominantly rural there is merit the boundaries of Auckland being considered separately by the Local Government Commission. This will enable affected communities to have their say on what they consider is best for them.

- ~~(d) 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.~~

~~(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~~
- ~~(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.~~

## Explanation

Given that Council members will be elected from the local board areas, there is no need for the ward boundaries to be determined separately and so relevant clauses that relate to this have been deleted.

(3) In making a determination under **subsection (1)(~~ba~~, ~~eb~~, or ~~ec~~)**, the Commission must ensure that—

- ~~(a) there are no fewer than 20 but no more than 30 local board areas so far as is practicable, the boundaries of the local boards consistent with the General Electoral Districts contained within the Auckland Council boundary; and~~
- ~~(b) there are no fewer than 4 but no more than 9 members for each local board; and~~
- ~~(eb) 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~~
- ~~(ec) the subdivision of any local board area for electoral purposes provides fair representation for the electors of the local board area; and~~
- ~~(ed) 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~~
- ~~(f) so far as is practicable, local board area boundaries coincide with ward boundaries; and~~
- ~~(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.~~

(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)**.

~~(5) For the purposes of giving effect to **subsection (2)(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).~~

~~(6) For the purposes of giving effect to **subsection (3)(ec)**, 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.~~

~~(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 (5) or (6)**, as the case may be.~~

(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.

## Explanation

Alignment of local board areas with parliamentary boundaries is specifically designed to create areas of equivalent size in population with identified communities of interest; and strong alignment between local, regional and central government representation. It will also enable adjustment to electoral boundaries to reflect regional growth over time. Each Community Council including those representing Maori will have a population of around 60,000 people. It is useful to note that this coincides with the average population of New Zealand local authority districts which is 56,000 per district.

## Conclusion

The detailed amendments described above achieve a balance between centralised decision making powers and local representation. The Council will be led by the Mayor elected at large from the greater Auckland area who will be responsible for championing the aspirations of the people of the region. As leadership skills are the crucial success factor for this role, the ability to win popular support by standing for election at large is seen as a critical test of capability for the role. The Mayor will have both a deliberative and casting vote on Council and will have a range of executive powers including appointment of the leaders of the key delivery agencies.

Community engagement, participation and influence will be strengthened by the establishment of the Local Boards. These will include two Maori Councils to represent the interests of Tangata Whenua across the region. The Community Councils will comprise five members elected locally. Each Local Board will be allocated an equivalent amount of the regional rates to allow implementation of community plans. An equal allocation of funds ensures equity amongst all communities and is targeted at ensuring wealthier communities are not advantaged over lower socio demographic areas.

If Auckland is to thrive we must capture the talents of all our people. The local board elections and local plan process will make this happen.

In addition to the local council, each community will elect one person at large to sit on the Auckland Council. While elected from community areas, the role of One Auckland councillors is to oversee the strategic direction of the region as whole, and be the link between national, regional and local government.

Broad alignment of Local Board areas with parliamentary boundaries is designed give each community consistent representation at central government level through their local Member of Parliament, at the regional level through their Auckland council member and at the local level through their Local Board. It will also enable adjustment of boundaries to reflect regional growth over time. Services will be contracted to the private sector, as they are now, but the Local Board will be the eyes, ears and voice of the local community to ensure service standards are maintained and improved for the benefit of the communities they serve.

Yours faithfully,



Stephen Selwood  
Chief Executive