

**Submission on the  
Local Government (Auckland Council) Bill  
by Waitakere Community Law Service**

To the Auckland Governance Legislation Committee  
Committee Secretariat  
Auckland Governance Legislation  
Parliament Buildings  
Wellington.

**Introduction**

This submission is from Waitakere Community Law Service.

We wish to appear before the Committee to speak to our submission.

The contact person for this submission is:  
Paula Bold-Wilson  
Manager, Waitakere Community Law Service

Our contact details are:  
Waitakere Community Law Service  
PO Box 121-104  
Henderson  
Waitakere 0602  
Tel: 09 8352130  
Fax: 09 8352133  
e-mail: paula@waitakerelaw.org.nz

**About Waitakere Community Law Service**

Waitakere Community Law Service (“WCLS”) is a community law centre as defined by the Legal Services Act 2000 which was established in 2005 to enhance the lives of people most in need and whose lives are impacted on by unresolved legal issues.

WCLS is one of 27 community law centres in New Zealand.

WCLS is an Incorporated Society with charitable status.

WCLS is governed by a governance team comprising of members of the local community including the legal profession.

WCLS has eight employees: four Lawyers (2 full time and 2 part-time), a Manager, an Accounts/Projects Officer, a Receptionist and a Tenancy Service Co-ordinator.

WCLS was established specifically to assist people in Waitakere City., but has recently expanded its services to assist people living in the North Shore City and Rodney District Council areas.

We receive most of our funding from the Legal Services Agency. Our Tenancy Service is funded by Waitakere City Council.

Our Mission is to:

- Give effect to Te Tiriti o Waitangi
- Treat all people with dignity and respect
- Work in ways that value diversity
- Promote sustainable and empowering ways of working
- Practice the “Waitakere Way” proactive, strengths based, collaborative, sustainable.

WCLS has a Strategic Action Plan which informs the way that WCLS gives effect to its Mission. In accordance with this Strategic Action Plan, WCLS focuses its legal services towards promoting community well-being and increasing community capacity to address legal and other social problems. We prioritise marginalised groups by focusing on addressing the unmet legal needs of the most disadvantaged people in the community.

We recognise that legal problems are often symptomatic of other wider social problems and that a holistic approach involving other social services is often necessary to resolve problems presented by clients. We work closely with other community organisations to ensure that the wider social well-being needs of the communities we serve are met.

In addition to meeting with members of the community and representatives from community organisations on a regular basis, we provide legal education seminars to community groups and individuals on a regular basis and legal information, advice and assistance to around eighty to ninety individual clients every week. This means that we are in a strong position to be able to make informed comments about how the Bill will affect the members of the communities we serve if passed.

The delivery of our legal services is based upon a comprehensive community consultation approach. Over the past four years we have made significant improvements to our service delivery because we have listened to our community. We strongly urge that the New Zealand Government adopt the same approach in relation to the Bill as we believe that local government has a significant role to play in addressing the social needs of the community.

The themes of Te Tiriti o Waitangi, community consultation, representation of diversity and protection of marginalized communities are ones which are central to the provision of services by WCLS and which therefore appear throughout this submission.

## **Summary**

We oppose the Bill because of the absence of community consultation in relation to those clauses which depart from the recommendations of the Royal Commission.

We submit that clause 8 should be amended to make provision for the following:

- Guaranteed representation for Māori
- An increased in number of Councillors
- Members of Council and Mayor should be elected using the single transferable vote system
- Members of Council and Mayor should be elected from wards not at large

We submit that clause 9 should be amended to provide that the Deputy Mayor and all Chairs should be appointed by the Council, not the Mayor.

We submit that clauses 10-17 be amended to give local boards:

- legal status;
- sufficient powers to undertake the functions they will be responsible for delivering at a local level;
- an allocated budget and the ability to employ staff and let contracts in order to fulfil their responsibilities.

We submit that clause 18(3)(b) should be deleted as the Local Government Commission should be required to consult local communities in determining the boundaries for wards and local boards or other second tier entities.

We submit that clause 19 should be amended to require the Local Government Commission to consult local communities in determining the boundaries for wards and local boards or other second tier entities and what represents a “community of interest”.

We submit that clause 20 should be deleted as it gives the Secretary for Local Government unnecessary and excessive powers in relation to decisions of the Local Government Commission.

We submit that clause 24 should be amended to provide that:

- Auckland’s water and wastewater infrastructure remains in public ownership; and
- Progressively priced block tariffs are progressively rolled out to water consumers across the Auckland Region, as recommended by the Royal Commission.

We now propose to expand upon these comments in more detail.

## **Lack of Community Consultation**

We note that the Royal Commission on Auckland Governance delivered its report in March 2009 after 18 months’ work and receiving over 3500 submissions. We accept the

Commission's findings that there is a need to reform the current system of local governance.

While we do not agree with every recommendation made by the Royal Commission, the extensive community consultation undertaken by the Royal Commission means that there is at least a legitimate basis upon which such recommendations have been made.

WCLS is very concerned that the New Zealand Government has chosen to disregard many of the recommendations of the Royal Commission without consulting with the community. Our Manager has been to many community meetings where the Bill has been discussed and we can report that although there are differing views about what model(s) a reformed Auckland Governance should assume, there is widespread discontent amongst residents of Waitakere and other cities that they have not been consulted about the model for Auckland Governance which now appears in the Bill.

## **Clause 8 – Governing body of Auckland Council**

### ***Guaranteed representation for Māori***

We note that the Royal Commission recommended that three seats on the Auckland Council be reserved for Māori as this would be,  
*“consistent with the spirit and intent of the Local Government Act 2002, which requires local authorities to establish processes for Māori to contribute to decision making. It will ensure that there is an effective Māori voice at the decision-making table, and that the special status of mana whenua, and their obligations of kaitiakitanga and manākitanga, are recognised.”*

We believe that clause 8 should be amended in accordance with this recommendation. One of the key priorities of WCLS is to give effect to Te Tiriti o Waitangi, which recognises Māori as the indigenous peoples of Aotearoa and their distinct role as Treaty Partners with the Crown. We believe that guaranteed Māori representation in the governance of Auckland is required by Te Tiriti o Waitangi. We accept the recommendation of the Royal Commission that this can be achieved by reserving three seats for Māori as we note that the Royal Commission consulted widely with Māori and other communities before making this recommendation.

Furthermore, we wish to point out that approximately twenty per cent of people seeking assistance from WCLS are Māori so we have an strong interest in ensuring that the social well-being needs of Māori are met by appropriate and effective representation at local Governance level.

### ***Increase in number of Councillors***

The Vision of WCLS is to help those most in need. Through extensive consultation with the members of the Waitakere City community prior to our establishment, we identified that the communities most in need in Waitakere City are:

- People on very low incomes
- People on income support
- Maori and Pacific Peoples
- People under 25
- People with disabilities
- Mental health consumers
- Refugees and migrants
- Single parents
- People over 65

We provide services to people from each of these communities of interest every day. This has given us a real appreciation of how diverse our community is and how diverse its social needs are. We strongly believe, therefore that the large and diverse communities which comprise the Auckland region cannot possibly be represented effectively by just 20 council members. For this reason, we believe that the number of members of Auckland Council should be increased.

***Members of Council and Mayor should be elected using the single transferable vote system***

Furthermore, we believe that the way the Council members and Mayor are elected should ensure that the diversity of the Auckland community is reflected in the elected representatives. In our view, this can only be achieved by a single transferable vote system, in which minority and marginalised voices are heard through proportional representation. We strongly disagree with the use of a first past the post system as this may result in the Mayor and members of Council being elected by a minority of Aucklanders.

***Members of Council and Mayor should be elected from wards not at large***

Finally, we believe that the Mayor and all members of Council should be elected from single-member wards. If members of Council are elected at large, the costs of campaigning in such a system, would be so prohibitive that only the rich and famous would be able to do so. Such people would hardly be representative of the majority of Aucklanders, especially those from marginalised and/or minority communities.

**Clause 9 – The Mayor**

The rule of law is an extremely important concept in New Zealand which is reflected in the requirement that all lawyers in New Zealand uphold the rule of law (*Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008*).

As a community law centre engaged exclusively to provide services to those most in need in the community, WCLS takes this obligation particularly seriously.

We believe that the proposal to extend the powers of the Mayor is inconsistent with the rule of law. If the Mayor is able to appoint the chairperson of each committee, the Mayor can potentially push an agenda through, without proper debate and scrutiny.

Clause 9 should be amended to provide that the Deputy Mayor and all Chairs are appointed by the Council, not the Mayor. We believe the Auckland Mayor should have the same powers as all other Mayors in New Zealand.

## **Clauses 10 – 17 - Local Boards**

### ***Our recommendations to relation to clauses 10 – 17***

Provision of services to and meeting the social well being needs of the community is central to the work of WCLS. We are therefore very interested in how the local boards proposed by the Bill would effectively address the wishes and needs of community in this regard.

We note that the purposes of the local boards are to “enable democratic decision making by and on behalf of its communities and facilitating local input into decision making of Council”.

In our view, these purposes can only be achieved if the local boards are given legal status and sufficient powers to undertake the functions they will be responsible for delivering at a local level. Furthermore, local boards need to have an allocated budget and the ability to employ staff and let contracts in order to fulfil their responsibilities. Services should be planned, funded and delivered locally wherever possible. Only those activities that must be governed at regional level should be.

We believe that Clause 11 should be amended to give legal status to local boards as legitimate local authorities, with all the legal rights and responsibilities this entails and that clause 11(c) should be deleted.

We believe that Clause 12 should be amended to reflect our view that Local Board members, like the Auckland Councillors (see our comments about clause 8 above), should be elected by the more democratic Single Transferable Vote (STV) system in multi-councillor wards to ensure proportional and democratic representation, as well as better representation of ethnic groups and minorities.

We believe that Clause 13 should be amended to give local boards:

- clearly defined roles and powers in the Local Government Act 2002 and other statutes.
- the ability to deliver local services and to set their own budgets, within a funding cap agreed with the Auckland Council.
- the authority to collectively vote on any Auckland Council proposal to make a rate, pass a bylaw, adopt an Annual Plan or Long Term Community Council Plan

(LTCCP), and purchase or dispose of assets if such a proposal is not included in the LTCCP.

- clearly defined roles and representation in the development of all regional strategies, including:
  - Auckland's Regional Growth Strategy as outlined in Section 37SG of the Local Government Act 1974 No66;
  - Auckland's Regional Land Transport Strategy as outlined in Schedule 7 of the Land Transport Management Act 2003;
  - Any Auckland Regional Policy Statement as outlined in Clause 62 of the Resource Management Act 1991;
  - Any Auckland Regional Policy Statement as outlined in Schedule 1 of the Resource Management Act 1991.

We believe that Clause 14 should be deleted completely and Local Boards should be recognised in statute as legitimate local authorities, with all the legal rights and responsibilities this entails.

We believe that Subclauses 15(4), 15(5) and 15(6) should be deleted completely, as they allow elected Local Board members to completely subcontract all their responsibilities to individuals or corporations.

We believe that clauses 16 and 17 should be amended to give effect to our other recommendations.

***Our concerns about the ongoing and future funding of projects established to promote social well-being***

WCLS has been directly involved in a project which has been funded by Waitakere City Council. This project is the Tenancy Advice and Advocacy Service and has been enormously successful in raising the awareness of both individuals and organisations about the impact of housing and tenancy issues and the way to address them as well as resolving a number of individual cases through advocacy and other assistance.

The Tenancy Advice and Advocacy Service was established by Waitakere Tenancy Action Network, a sub-group of Waitakere City's Housing Call to Action network, which includes community housing and social service organisations, as well as Waitakere City and central government agencies. The willingness of Waitakere City Council to participate in the Housing Call to Action network and then fund the Tenancy Advice and Advocacy Service demonstrates the important role that local government can play in relation to social issues.

The Coordinator of the Tenancy Advice and Advocacy Service is employed by Waitakere Community Law Service and Waitakere Community Law Service is a member of Waitakere Tenancy Action Network.

In our view, the funding of the Tenancy Advice and Advocacy Service and future community based projects designed to promote social well-being will only be secure if

the amendments proposed by us in relation to local boards are made, as without these amendments, there will be no resources available to local boards to consult with the community about its needs and no obligation upon the Council to accept recommendations from local boards about such issues.

If the funding of the Tenancy Advice and Advocacy Service is jeopardised in any way, this will have an extremely detrimental impact upon the social well-being of our community.

### **Clause 18 – Boundaries of Auckland**

WCLS believes that the Local Government Commission should be required to consult local communities in determining the boundaries for wards and local boards or other second tier entities. Clause 18(3)(b) should therefore be deleted.

### **Clause 19 – Determinations of Local Government Commission**

WCLS believes that Clause 19 should be amended to require the Local Government Commission to consult local communities in determining the boundaries for wards and local boards or other second tier entities and what represents a “community of interest”.

### **Clause 20 – Give effect to determinations**

WCLS believes that clause 20(3) should be deleted as it gives the Secretary for Local Government unnecessary and excessive powers in relation to decisions of the Local Government Commission, which in our view is contrary to the spirit of the Rule of Law.

### **Clause 24 – Watercare Services**

WCLS believes that in relation to water, the best interests of the community, particularly those receiving low incomes or income support, are served by low cost, publicly owned services.

WCLS therefore believes that clause 24 should be amended to provide that:

- Auckland’s water and wastewater infrastructure remains in public ownership; and
- Progressively priced block tariffs are progressively rolled out to water users across the Auckland Region, as recommended by the Royal Commission.

25 June 2009