

## **AUCKLAND REGIONAL AMENITIES FUNDING BILL**

**(Finance and Operational Performance Committee, 06 August 2007)**

### **PURPOSE OF THE REPORT**

The purpose of this report is to bring to the Council's attention the Auckland Regional Amenities Funding Bill, and to seek initial direction from the Council to provide a basis for further work and an initial response.

### **BACKGROUND**

The issue of the funding of a number of facilities and amenities that purport to serve and benefit the region has been topical in the Auckland region over an extended period. A number of facilities and amenities have claimed to be regional in nature, and have sought funding from councils across the region. Alongside this, some councils, with Auckland City at the forefront, have claimed that they provide and fund facilities and amenities that benefit the whole region and are used by residents from other territorial authority areas. This situation is seen by some as producing funding inequities.

Regional discussions on this issue have been held from time to time. In recent times this issue has been incorporated into discussions over the Auckland Regional Governance project. It has also led to a number of organisations forming together to develop and promote the Bill which is the subject of this report.

There are already some facilities that receive funding from the councils of the region via a statutorily mandated process similar to that proposed in the Bill. These are the Auckland War Memorial Museum and the Museum of Transport and Technology (MOTAT). While this approach provides funding certainty for the facilities concerned, some in the community regards it as less than satisfactory for the local authorities that are required to meet the costs. Issues of concern relate to equity in terms of relative usage by city residents and benefits returned to Waitakere, as well as reduced accountability and decision making for Council in respect of substantial amounts of rates funding that they are required to levy on ratepayers. These issues will be expanded on below with respect to the Bill currently being considered.

### **STRATEGIC CONTEXT**

Council has long recognised that quality facilities and amenities are a vital component of an attractive, liveable and sustainable city and wider Auckland city-region. Council has supported and nurtured arts and culture programmes in the city, and has supported organisations such as Surf Life Saving on a regional basis. The Council's Arts and Culture Strategy and the programmes that sit under it are seen as contributing to community outcomes such as Vibrant Arts and Culture, Urban and Rural Villages, Whaiora – Participation in Society and Strong Communities, and forming a vital part of Councils Eco City direction. Services such as surf life saving contribute to strong and safe communities.

Alongside these considerations issues such as affordability, funding equity and the ability of Council and the community to exercise decision making over what ratepayer resources are spent on are also important parts of Council's strategic framework. All of these issues need to be taken into account when considering the Bill.

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## ISSUES

Council has demonstrated its support for a number of regional amenities in the past and acknowledges that the issue of regional funding needs to be addressed. However the proposed Bill raises some issues and concerns for Council that need to be explored and discussed.

### The Bill

A copy of the draft Bill is attached at pages x to x.

The following agencies have joined together to promote the Bill in order to pursue regional funding:

- Auckland Observatory and Planetarium Trust Board
- Auckland Philharmonia
- Auckland Regional Rescue Helicopter Rescue Trust
- Auckland Theatre Company Limited
- Coastguard Northern Region Incorporated
- New Zealand National Maritime Museum Trust Board
- New Zealand Opera Limited
- Surf Life Saving Northern Region Incorporated
- The Auckland Festival Trust
- WaterSafe Auckland Incorporated

The Auckland Zoo is also proposed to receive funding under the Bill, subject to it first being established as an entity separate from Auckland City Council.

The purposes of the Bill are described as being to establish a mechanism to provide adequate, sustainable and secure funding for specified amenities that contribute to the well-being of the Auckland region and make the region a vibrant and attractive place to live or visit, and to ensure that all territorial authorities in the region are part of that mechanism and contribute funding to the specified amenities.

The Bill establishes a funding process and entities to administer that process. The role and powers of the Electoral College established under the Auckland War Memorial Museum Act 1996 are proposed to be extended to cover the processes proposed in the Bill. The Electoral College, which comprises representatives of each of the territorial authorities in the Auckland region, would be responsible for determining the total annual levy to be paid by the territorial authorities (within the narrow limits imposed by the Bill), appointing half the members of the Funding Board (described below), inviting and approving any new organisations to be eligible for regional funding via the Bill's processes, and determining whether organisations should cease to qualify for funding (again, within the processes and limits imposed by the Bill).

The Auckland Regional Amenities Funding Board is proposed to be established under the Bill. The Board comprises five members appointed by the Electoral College and five members appointed by the amenities that will receive the funding. It is proposed that the Board will be responsible for receiving and assessing annual applications from each amenity, preparing a funding plan and making a recommendation to the Electoral College on the total levy based on the funding plan. The Board will also monitor the amenities and report on their performance.

The Bill also proposes to establish an Amenities Board. This is to be made up of a representative from each of the amenities eligible for funding, and will appoint the five members of the Funding Board not appointed by the Electoral College. The Bill states that each member of the Funding

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Board will be required to act independently and may not have any direct relationship with any of the amenities or the territorial authorities.

The Bill proposes limits on the total levy imposed on territorial authorities: a set amount initially, rising over four years to not more than 2% of the combined rates revenue of all of the territorial authorities from the previous year. The levy is allocated across the territorial authorities on the basis of a percentage calculated by dividing each authority's rates revenue from the previous year by the combined rates revenue from all of the contributing authorities, reduced by a 0.6 differential in the case of Franklin and Rodney Districts.

The Bill proposes that the funding plan prepared by the Funding Board will be the subject of a public consultation process before it is adopted. The Bill also sets out funding principles against which funding sought by amenities will be assessed.

### Concerns for Waitakere

Officers are still analysing the detail of the Bill in order to prepare any submission that the Council might wish to make. However based on initial analysis, the following issues emerge that are likely to be of concern to Council and its communities:

**Selection of Amenities – Now and in the Future** – While the organisations behind the Bill have shown considerable initiative in bringing the Bill to this stage, the 'self-selection' aspect of the Bill raises issues about how organisations or amenities are selected as being suitable for regional funding. It would seem desirable for there to be some form of debate and decision-making within the region, and possibly within individual territorial authority areas, in respect of which amenities are regarded as priorities for regional funding. While there are processes and criteria in the Bill for assessing applications to become specified amenities, and for assessing the extent to which specified amenities meet the criteria for regional funding, the responsibility for these processes is removed from directly elected Councils.

**Removal of Council Discretion in Decision Making** – One of the concerns with the Bill is that it removes control over how ratepayers' funds are allocated from Council decision-making and its related public accountability mechanisms. While the Bill does provide for some consultation on the Funding Plan and in any situation where it is proposed to remove an entity from the list of specified amenities, this is carried out by the Funding Board which is somewhat removed from direct accountability to either the public or the contributing territorial authorities.

**Is Funding From Territorial Authorities the Best Mechanism?** – In putting together the Bill, the proposing organisations have reached the conclusion that funding from the territorial authorities of the region is the best answer to the problem of regional funding, seemingly without much in the way of robust analysis of the options or alternatives. In the explanatory note to the Bill, the discussion of alternatives is brief, and funding via regional rates is dismissed on the basis that "*the Auckland Regional Council has resolved not to fulfil that role at this stage.*" One is forced to wonder why such a resolution from the Regional Council would be given any more weight than a similar one from a territorial authority. In addition, seemingly no attention has been paid to work done on this issue through the Auckland Regional Governance project. While not ruling out the approach taken in the Bill, the view of officers is that more robust analysis is required before any view that funding from territorial authorities is the best solution can be accepted.

**Regional Equity Issues** – While the Bill provides for a differential factor of 0.6 on funding for the Rodney and Franklin Districts, presumably based on distance from and resulting use of a number of the amenities, there are still some issues of equity not adequately addressed in the Bill. Part of the justification for funding regional amenities, and in particular arts and cultural amenities, is to

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create a vibrant and prosperous city-region. Aside from any intrinsic value these amenities might have, they are said to benefit communities by attracting people to localities and providing activity off which businesses can prosper. Most of the arts and cultural amenities listed in the Bill are physically located in Auckland City (e.g. the Maritime Museum and the Observatory) or perform or stage events and performances predominantly within Auckland City. This means that it is businesses within Auckland City that gain the benefits associated with the spending power of audiences/patrons attracted to these events or facilities. In addition, it is likely for some amenities, although Council has no data on this, that those living closer to an event or amenity would be more likely to visit that event or amenity than those living further away.

**Funding Mechanism Inequities** – The funding mechanisms proposed in the Bill are unfair. While the Bill proposes to set maximum levels of total funding that can be required from contributing authorities, it does so based on the level of rates revenue from the previous financial year. The method of allocation of the levy to individual authorities described above (individual Council rates revenue divided by combined rates revenue) unfairly favours Councils who have removed large components of cost (such as water and wastewater) from their rates levy over those who have not. Auckland City would be among those to gain the most from such an approach, while it is their businesses who gain the most from the existence of most of the amenities (particularly those with geographical locations). Given the recent public debate over water and wastewater charges and ownership in the region, it would seem strange for Parliament to want to institute a structural incentive to corporatisation and user charges through an unrelated Bill on the funding regional amenities. This is precisely what the Bill in its current form would do.

### Relationship with the Auckland Regional Governance Project

The issue of funding for regional amenities and facilities has been discussed through the Auckland Regional Governance project. The Bill is out of step with the approach taken in this work. The issue of funding of regional amenities was dealt with in the joint report consider by the councils of the region. Council resolved:

*"Regional Facilities*

*h) Greater Auckland to assume ownership and/or funding responsibility for existing facilities of a primarily regional nature, including the Auckland War Memorial and Transport Museums, and those facilities and services requiring regional funding; with any transfer of ownership and/or funding subject to a process of negotiation and agreement between parties. The starting point for the process would be the proposed 'Auckland Regional Amenities Bill' promoted by eleven region organisations and supported by Auckland City Council. Transfers will be contingent on:*

- identifying a transparent process for the identification of the reduced rating requirements by relevant territorial authorities as a result of the transfer of functions*
- identification of additional regional funding sources to support both existing and new facilities*
- certainty (possibly through legislation) about the funding obligations and mechanisms that are to operate within the region."*

(part minute number 1145/2007)

Given the extensive work done through the Regional Governance project, the fact that it recognises the issues raised in the proposed Bill, and the level of agreement that has been reached between Councils, it seems more appropriate for the proponents of the Bill to be directed to work with the Councils of the region as outlined in the resolution above.

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### Initial Action Proposed

Further analysis of the Bill is required, alongside work with other Councils in the region. Overall, the view of officers is that while the issue of funding of regional amenities is one that needs to be addressed, the proposed Bill has significant shortcomings, both at a conceptual level and in its detail. It is recommended that Council advise all parties involved to address the issue through the processes envisaged in the Regional Governance project, and in the meantime oppose the Bill in its current form.

Further work will be done in relation to the proposed Bill, and the matter will be reported to Council as appropriate. Work of drafting a submission will commence as part of this.

### RESOURCES

If the Bill as proposed became law it is estimated that upwards of \$2 Million per annum could be added to Waitakere City's rate requirement within a short period of time.

### CONCLUSION

The Auckland Regional Amenities Funding Bill has been publicly notified as a precursor to its entering the Parliamentary process. The Bill is being promoted by a number of organisations seeking access to regional funding, via a compulsory levy on territorial authorities.

Officers see that the issue of regional funding of amenities is one that needs to be addressed. However, they also see a number of issues with the Bill in its current form that are likely to create unfairness and be of concern to the Council and residents of the City.

In addition, the Bill does not recognise the work done through the Auckland Regional Governance Project which agreed that a process is needed for addressing the issue of regional funding for facilities and amenities, and specifically addressing the issues raised in the Bill. It is recommended that Council advise those proposing the Bill that they should work through the Regional Governance process in the first instance. It is also recommended that Council should oppose the Bill in its current form, particularly if the proposing organisations elect not to work through the regional governance process.

### RECOMMENDATIONS:

1. That the Auckland Regional Amenities Funding Bill report be received.
2. That the Chief Executive write to the proponents organisations of the Auckland Regional Amenities Funding Bill and any other parties identified as appropriate advising that the Bill and the issues it attempts to address should be dealt with through discussions with the Councils of the region as agreed through the Auckland Regional Governance project prior to its introduction to Parliament.
3. That Council note the concerns relating to the Auckland Regional Amenities Funding Bill set out in the agenda report and instruct the Chief Executive to commence work on a submission opposing the Bill in its current form for reporting back to Council should the Bill be introduced to Parliament without reference to the process outlined in 2. above.

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4. That Council authorise the Chief Executive to communicate Council's concerns regarding the Auckland Regional Amenities Funding Bill to other parties as he considers appropriate.

Report prepared by Ross McLeod, Director Corporate and Civic Services

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# **Auckland Regional Amenities Funding Bill**

Private Bill

## **Explanatory note**

### **General policy statement**

This Bill establishes a statutory framework for the secure and sustainable funding of particular organisations that provide arts, educational, rescue or other community facilities or services used or relied on by people throughout the Auckland region, and which have been identified by the public as vital for the Auckland region.

Cities of international standing require, and their residents expect, access to certain facilities and services in the areas of the arts, culture and entertainment, as well as public and community facilities such as rescue services. In the Auckland region this includes surf lifesaving and rescue helicopter services, and regional facilities such as a museum, zoo, theatre, and orchestra. These organisations are part of the essential fabric of Auckland and contribute towards making the region a vibrant and attractive place to live in and visit.

Within the Auckland region there are a number of organisations which provide such services and amenities in a way which contributes to the well being of the region as a whole, rather than to a specific local area. These organisations benefit both residents of, and visitors to, the region.

A number of these organisations have joined together to pursue regional funding through this bill. They are—

- Auckland Observatory and Planetarium Trust Board
- Auckland Philharmonia
- Auckland Regional Rescue Helicopter Trust
- Auckland Theatre Company Limited
- Coastguard Northern Region Incorporated

- New Zealand National Maritime Museum Trust Board
- New Zealand Opera Limited
- Surf Life Saving Northern Region Incorporated
- The Auckland Festival Trust
- WaterSafe Auckland Incorporated.

The Auckland Zoo is also proposed to receive funding under the Bill subject to it first being established as a separate entity.

A legislative framework is necessary to ensure the long term sustainability of these organisations. In particular this will—

- enable the organisations to focus more on their core businesses:
- reduce the amount of time spent on securing funding:
- improve their ability to perform on a wider regional basis:
- improve accessibility to the organisations' services:
- ensure staffing requirements are adequately met:
- demonstrate the organisations' future viability so as to assist in attracting and maintaining the volunteers and trustees upon which they depend.

To achieve this, the Bill—

- establishes a mechanism for certain organisations (specified amenities) to apply for and receive regional funding by way of a levy that will be met collectively by the territorial authorities in the Auckland region:
- establishes an associated governance structure through the Electoral College and the Auckland Regional Amenities Funding Board:
- sets criteria for new organisations to qualify for inclusion in the funding regime in the future.

### ***Reasons for Bill***

Although the organisations are all used by, enjoyed or relied on by people across the region, at the present time the Auckland City Council meets the majority of the funding received from the local government sector. The Bill provides an enduring mechanism by which all of the territorial authorities in the Auckland region contribute appropriately towards the funding of the specified regional organisations. This funding will enable the amenities to operate and grow their services, products and programmes as appropriate, to become more sustainable in the medium to long term.

Most of the organisations that will benefit from the Bill are already receiving some funding from each of the territorial authorities in the Auckland region, but on an ad hoc and voluntary basis, and to varying levels of financial support. Others have struggled to receive sufficient and secure funding despite regular requests and submissions to the territorial authorities. The current local government funding situation is therefore at best uncertain, relying on the ongoing goodwill of the territorial authorities in the region.

Existing funding, appreciated and essential as it is, is also at a baseline level. This means that there is a disproportionate effort involved in generating income rather than developing the organisation and its programmes and services. Services are set more on the basis of what each organisation can afford from year to year rather than in developing the organisation and delivering the service, amenity or facility. The work of the organisation is inhibited and its capacity to achieve full potential is compromised.

The Bill is designed to give a level of financial security to the organisations, while at the same time providing a formalised structure and an appropriate maximum or upper limit on the total funding in any year within which the territorial authority contributions to their funding will be considered and determined.

The Bill will enable the organisations to focus on their core business and to improve the organisations, their facilities and accessibility to their services for the benefit of residents of and visitors to the region.

This will also reduce the considerable time, effort and resources currently spent making multiple applications to annual plans and the like, but which could be dedicated to progressing the organisation.

The Bill is not intended to provide a substitute for any other funding that is provided through central government, arts trusts or any other sources which are currently available to the organisations or that may be available in the future. The organisations must continue to use reasonable endeavours to maximise their revenue from other sources. The mechanism for regional funding that is proposed to be established by the Bill will therefore work alongside the existing funding frameworks.

#### *Public support for concept*

Independent surveys have been conducted over the last 12 years to assess the level of public support for such organisations. The surveys show that the public perceive them as being regional in

nature, and that there is a willingness on the part of residents to contribute to their funding on a regional basis through their rates. The survey results have consistently shown majority support for the concept of equitable funding by the seven territorial authorities. They demonstrate that the above groups are considered of regional significance by virtue of being either the only organisation providing the particular service or by being the largest operator in the Auckland region.

### *Alternatives*

The alternatives to this Bill are limited. The organisations that are jointly promoting the Bill could continue to make annual funding applications to the seven territorial authorities in the Auckland region and the Auckland Regional Council. However, continuation of the status quo is undesirable because it is unlikely to address the existing issues with the current process and in particular it is unlikely to result in increased contributions from any of the territorial authorities, or to address the lack of security of funding in the longer term. The contributions are also unlikely to be spread appropriately amongst the different territorial authorities.

The territorial authorities could potentially enter into a voluntary agreement to fund the entities on a regional basis. However, it appears very unlikely that all of the territorial authorities would be willing to enter into such an agreement; even if they did, the arrangement would only continue for as long as each local authority agreed to remain a party. Again, this would not provide the necessary long term and sustainable solution.

Another alternative would be for the Auckland Regional Council to provide funding for these organisations, as it has a regional jurisdiction and the power to collect rates for this purpose. However, the Auckland Regional Council has resolved not to fulfil that role at this stage.

The Bill is based on the principles and processes successfully established through two Acts of Parliament which provide for regional funding of two museums serving the region: the Auckland War Memorial Museum Act 1996 and the Museum of Transport and Technology Act 2000. These two Acts similarly provide a process for the seven territorial authorities in the region to contribute to and support these organisations.

The organisations promoting this Bill believe that legislation is the best available means by which long term, certain, and equitable funding can be achieved, on a regional basis, so as to ensure their sustainable future.

### **Overview of Bill**

The Bill establishes a funding process involving annual applications by certain organisations (the qualifying amenities), an assessment against specified funding principles, the preparation of a draft funding plan, public consultation on the draft funding plan and approval of the total levy needed to meet the costs in the funding plan.

The Bill includes a staged or phasing in mechanism so that the funding available to the amenities will start at a defined level but with provision made for the amenities to be able to apply for increased funding over time.

For the first financial year after the Bill is passed, the amounts to be paid to each of the amenities will be specified in the Bill. In the second and third financial years, the amenities can apply for funding and the Funding Board must determine the amount to be paid to each amenity within a maximum total levy of \$16 million and \$19 million respectively.

From the fourth year onwards, the maximum amount of levy that can be fixed by the Funding Board and levied on the territorial authorities must be no more than 2% of the seven territorial authorities' combined rates revenue (subject in the case of the Rodney and Franklin District Councils to a differential factor of 0.6) in the previous financial year.

The total levy will be divided between the territorial authorities based on the proportion of each territorial authority's rates revenue to the total rates revenue in the region. This will ensure that the actual contributions of each territorial authority will not exceed 2% of that adjusted rates revenue in the previous year.

The key participants in the funding process, and their functions, duties, and powers, are set out in the Bill. These are the Electoral College (of territorial local authority representatives), the Auckland Regional Amenities Funding Board, the Amenities Board and the qualifying organisations (the amenities).

The Electoral College is an existing statutory entity that was established by the Auckland War Memorial Museum Act 1996. It comprises representatives of each of the territorial authorities in the

Auckland region. The Electoral College is currently responsible for approving the regional levies for the funding of the Auckland War Memorial Museum and the Museum of Transport and Technology (MOTAT) (through the Museum of Transport and Technology Act 2000).

The Bill extends the powers of the Electoral College. Under the Bill the Electoral College is responsible for approving the total annual levy to be paid by the territorial authorities for distribution to the qualifying organisations. The Electoral College is also responsible for inviting and approving any new organisations to be included in the framework for regional funding under the Bill, as well as determining whether organisations should cease to qualify for funding.

The Auckland Regional Amenities Funding Board is established by the Bill. The Funding Board will be the conduit between the amenities and the territorial authorities (represented by the Electoral College). The primary functions of the Funding Board will be to receive and assess the annual applications from each amenity, prepare a funding plan and make a recommendation to the Electoral College for the total levy based on that funding plan. The Funding Board will also be responsible for monitoring the amenities and reporting on their performance.

The Funding Board will comprise ten members - five to be appointed by the Electoral College, and five by the amenities that will receive the regional funding. Each member of the Funding Board is required to act independently, irrespective of who appointed them. The members of the Funding Board must not have any direct relationship with any of the local authorities in the Auckland region, or any of the amenities.

An Amenities Board is also established by the Bill. This board is made up of one representative of each amenity that is eligible for funding. The function of the Amenities Board is to appoint five members to the Funding Board.

The Bill specifies the particular amenities which will qualify for funding but also includes a process by which new organisations may be added in the future.

The Bill establishes a process for the approval and distribution of funding to the amenities. In the first full financial year after the Bill is passed, the amenities will receive the amount of funding specified in the Bill. From the second financial year after the Bill is passed, each amenity must submit to the Funding Board an annual plan,

outlining in particular terms for the following financial year, and in general terms for the following two financial years, various matters including its proposed activities and financial requirements.

Having considered that material, the Funding Board must then prepare a draft funding plan that distils and aggregates the key aspects of the individual annual plans lodged by the amenities. Amongst other things, the plan must include the total proposed levy and the amounts to be paid by each of the territorial authorities.

The Funding Board's draft plan will be the subject of a public consultation process before it is adopted. Once the total levy has been approved by the Electoral College, the Funding Board must adopt the funding plan and levy each of the territorial authorities in accordance with the plan, receive the funds and distribute them to the amenities.

Both the total levy, and each territorial authority's levy, must be within certain caps prescribed in the Bill. The caps set for years 1, 2 and 3 are designed to provide for a gradual increase in funding over time. From the fourth financial year onwards, the maximum total amount of levy can be no more than 2% of the 7 territorial authorities' combined rates revenue (as reduced by the 0.6 differential factor in the case of the Rodney and Franklin District Councils) for the previous financial year.

From the second financial year after the Bill is passed, the Funding Board will have a discretion to determine the amount of funding to be granted on an amenity by amenity basis, after considering each application against the statutory purpose of the Bill and the funding principles in the Bill, and in light of the specified cap on the total levy. Only funding that is judged to meet the funding principles will be available; for example, the amenity must demonstrate that it has made reasonable endeavours to maximise funding from other available sources of funding, and funding may not be applied towards capital expenditure.

### **Preamble and clause by clause analysis**

The *Preamble* describes the background to the Bill.

*Clause 1* sets out the title of the Bill.

*Clause 2* is the commencement clause. This Bill comes into force the day after it receives the Royal assent.

## **Part 1 Preliminary provisions**

*Clause 3* sets out the purposes of this Bill. The first purpose is to establish a mechanism to provide adequate, sustainable and secure funding for specified amenities that contribute to the well-being of the Auckland region, and towards making Auckland a vibrant and attractive place to live and visit. The second purpose is to ensure all Auckland territorial local authorities contribute towards funding the specified amenities.

*Clause 4* is an interpretation clause. It defines certain terms used in the Bill.

## **Part 2 Funding mechanism**

### **Subpart 1—Administrative bodies**

*Clause 5* establishes the Auckland Regional Amenities Funding Board.

*Clause 6* prescribes the membership of the Funding Board which requires 5 members to be appointed by the Electoral College and 5 by the Amenities Board. No person appointed to the Funding Board can be an elected member or an employee of a contributing authority or a board member or employee of a specified amenity.

*Clause 7* states that the Funding Board is established exclusively for charitable purposes.

*Clause 8* states that the Funding Board has all the necessary rights, powers and privileges and may incur all necessary liabilities and obligations.

*Clause 9* states that the administrative provisions applying to the Funding Board are set out in Schedule 4.

*Clause 10* establishes the Amenities Board.

*Clause 11* sets out the function of the Amenities Board which is to appoint members to the Funding Board and prescribes a meeting quorum and how voting is to be carried out.

*Clause 12* prescribes the membership of the Amenities Board.

## Subpart 2—Specified amenities

*Clause 13* sets out the assessment criteria that the Funding Board and Electoral College apply when assessing applications for funding and monitoring specified amenities for ongoing compliance with the assessment criteria. In summary, the criteria are—

- whether funding the organisation meets the purposes of the Bill;
- whether the organisation provides facilities or services to residents of and visitors to the Auckland region;
- whether the organisation provides facilities or services that are not otherwise generally available;
- whether the residents of the Auckland region visit or use, or otherwise benefit from, the organisation;
- whether, according to independent market research, the residents of the Auckland region perceive the organisation to be a regional one;
- whether the organisation has proper governance and management structures;
- whether the organisation has structures to ensure the funding is used predominantly for the organisation's facilities or services;
- whether the organisation has operated on a properly prepared budget, annual plan and long term plan over the previous 5 years;
- whether the organisation has audited financial accounts covering the previous 5 years;
- whether the organisation is a registered charitable entity under the Charities Act 2005.

*Clause 14* states that the Funding Board and Electoral College have absolute discretion in deciding whether an organisation satisfies the assessment criteria and to what extent.

*Clause 15* sets out the procedure for new organisations to become a specified amenity. The procedure involves the following steps:

- the Electoral College invites applications to become a specified amenity through a public notice. The Electoral College may require applications by a particular type of organisation on such terms that the College considers appropriate;
- the application must be in the form specified in the notice and contain any information specified in the notice.

*Clause 16* requires the Funding Board to assess every application to become a specified amenity and sets out the process for the assessment. The Funding Board must provide a recommendation to the Electoral College and its reasons about whether each applicant satisfies the assessment criteria and should or should not become a specified amenity.

*Clause 17* states that the Electoral College must receive the Funding Board's application assessments and decide whether an applicant is to be made a specified amenity.

*Clause 18* provides a process involving notice, hearings and recommendations to the Electoral College for the suspension or removal of a specified amenity from the funding framework where it no longer satisfies one or more assessment criteria. The Electoral College must receive the recommendation and decide whether the amenity should be suspended or cease to be a specified amenity.

*Clause 19* requires the Electoral College to give notice of any suspension or removal of an amenity. The notice must be published in the *Gazette* and in a newspaper circulating in the Auckland region, with a copy forwarded to the territorial authorities and the Amenities Board. A notice is a regulation for the purposes of the Interpretation Act 1999, the Acts and Regulations Publication Act 1989, and the Regulations (Disallowance) Act 1989.

### Subpart 3—Funding process

*Clause 20* requires the Funding Board to have regard to the following funding principles when considering an application for funding and when it prepares its funding plan:

- the primary purpose of the funding is to contribute to the specified amenity's expenses that must be incurred to provide its facilities or services;
- funding is not available for capital expenditure;
- funding is not available for facilities or services provided outside of the Auckland region;
- funding is not available for facilities or services that have been funded in the previous 5 years by a Crown entity or a state department;
- funding for the retention and preservation of a library or collection takes priority over the specified amenity's other expenses;

- funding is available only if the specified amenity has made reasonable endeavours to maximise its funding from other funding sources;
- total funding for all the specified amenities cannot exceed the maximum total levy for that year as set by the Bill;
- any other funding principles publicly notified by the Electoral College.

*Clause 21* provides for the specified amenities to submit long term plans of 5 to 10 years to the Funding Board for consideration and approval. Approval is not a commitment to provide funding.

*Clause 22* sets out the process and application requirements for a specified amenity to seek funding under the Bill. The amenity must apply to the Funding Board by 30 November in the year before the financial year for which funding is sought.

*Clause 23* states that the Funding Board must assess a funding application and decide provisionally on the amount of funding to be provided, having regard to the funding principles in the Bill and any long term plan of the amenity.

*Clause 24* requires the Funding Board to prepare a draft funding plan each year and specifies the contents of the draft funding plan. The funding plan includes the amount of funding that the Board proposes to grant each amenity, any conditions it proposes to impose and the total levy that the Funding Board proposes to levy.

*Clause 25* provides for the Funding Board and the Electoral College to meet and consider the total levy and any other matter in the draft funding plan.

*Clause 26* requires the Funding Board to publicly consult on the draft funding plan, consider and hear any submissions made on it, modify the plan if the Board considers appropriate in light of submissions, and request approval from the Electoral College.

*Clause 27* requires the Electoral College to consider and decide whether to approve the total levy proposed by the Funding Board.

*Clause 28* provides for an independent arbitrator to be appointed and to determine the total levy, if the Electoral College decides not to approve the total levy proposed by the Funding Board.

*Clause 29* requires the Funding Board to call a public meeting to adopt the draft funding plan. The Funding Board must publicly notify that the plan has been adopted and make the plan publicly available.

*Clause 30* prescribes the funding to be paid to the amenities in the first full financial year after the Bill comes into force as the amounts specified in Schedule 2. The Zoo can only receive the funding provided in Schedule 2 if it is established as a separate legal entity by the beginning of that year. The amount to be paid to the Funding Board for administrative costs in the first year is also prescribed. In the first financial year, the funding application process before the Funding Board does not apply.

*Clause 31* sets out the formula for how the individual levy of each contributing authority is to be calculated for the first financial year.

*Clause 32* requires each contributing authority to pay the amount of the individual levy to the Funding Board on the next 1 July after the Bill comes into force.

*Clause 33* stipulates how the Funding Board must calculate the maximum individual levies for each contributing authority in the second, third and subsequent financial years after the Bill comes into force and specifies the maximum total levy of the contributing authorities in the second, third and subsequent financial years and how this maximum total levy is to be calculated.

The maximum total levy in year 2 is \$16 million if the Auckland Zoo qualifies for funding and \$12 million if the Zoo does not qualify for funding in that year.

The maximum total levy in year 3 is \$19 million if the Auckland Zoo qualifies for funding and \$15 million if the Zoo does not qualify for funding in that year.

From the fourth year onwards, the maximum total levy of the contributing authorities is 2% of the total adjusted revenue from rates of all the authorities in the previous financial year. The adjusted revenue includes the application of a differential of 0.6 in the case of the Franklin District Council and Rodney District Council.

*Clause 34* requires the Funding Board to fix the amounts of individual levies of each contributing authority by resolution and send a copy of the resolution to each contributing authority on or before 30 April before the financial year for which the levy is imposed.

*Clause 35* requires each contributing authority to pay the levy out of its general revenues to the Funding Board by 1 July.

*Clause 36* provides for a potential situation where a contributing authority's district is altered and sets out how the Funding Board must deal with any altered district.

*Clause 37* requires that the Funding Board must pay the specified amenities as soon as practicable after 12 July and advise the specified amenities of any conditions that the funding is subject to.

#### Subpart 4—Reporting

*Clause 38* requires each specified amenity to prepare and send to the Funding Board a report that assesses the specified amenity's application of the funding and contains financial statements for the year.

*Clause 39* states that, at the end of every financial year, the Funding Board must prepare a report that assesses the performance of the Funding Board and each specified amenity and sets out the requirements for the report. The Funding Board must adopt the report, send a copy to the contributing authorities and make it publicly available.

*Clause 40* requires each contributing authority to report on its involvement with the Funding Board in its annual report.

#### Subpart 5—Miscellaneous provisions

*Clause 41* provides for the specified amenities to receive funding from other agencies but prohibits the specified amenities from receiving funding from contributing authorities for expenses already funded under this Bill.

*Clause 42* provides that if the Auckland Zoo is established as a legal entity separate from the Auckland City Council and is registered as a charitable entity then it is to be treated as if it was listed as a specified amenity in Schedule 1 and eligible to apply for funding under the Bill.

#### Subpart 6—Transitional provisions

*Clause 43* sets out the term of appointment for the first members appointed to the Funding Board and specifies the minimum number of members that must be appointed before the Funding Board can begin performing its functions under this Act.

*Clause 44* requires the Electoral College to call the first Funding Board meeting and to elect a chairperson for the Funding Board. As soon as practicable, the Funding Board must set its procedural rules.

*Clause 45* states that first appointments to the Amenities Board must be made 28 days after the Bill comes into force. At the first meeting the Amenities Board must elect a chairperson and appoint members to the Funding Board.

*Clause 46* has the effect of terminating any contract or agreement between a specified amenity and a contributing authority for funding which is to be received under this Bill that is in force on 1 July in the first financial year after the Bill comes into force.

*Schedule 1* lists the specified amenities who are eligible for funding under the Bill.

*Schedule 2* specifies the amount of funding that each specified amenity will receive in the first full financial year after the Bill comes into force.

*Schedule 3* defines the territorial authorities who will contribute to funding under the Bill and sets out the differential factors that apply to each contributing authority for the purposes of calculating the individual levies for the contributing authorities.

*Schedule 4* sets out the administrative provisions for the Funding Board. These include—

- *clause 1* states the Funding Board has perpetual succession and is not a council-controlled organisation under the Local Government Act 2002;
- *clause 2* requires the members of the Funding Board to act independently of the body that appointed them, the specified amenities and the contributing authorities;
- *clause 3* states that Funding Board members are not personally liable for any act carried out in good faith during the operations of the Funding Board;
- *clause 4* sets 3 years as the term of office of the Funding Board members but with a shorter period of 2 years for 3 of the first members appointed to the Funding Board. Every member is eligible for reappointment;
- *clause 5* provides for Funding Board members to resign by giving notice and to continue until a successor is appointed;
- *clause 6* sets out the circumstances where a Funding Board member's appointment ceases and an extraordinary vacancy is created;
- *clause 7* relates to the appointment of a chairperson and deputy chairperson of the Funding Board;
- *clause 8* sets out the quorum of the Funding Board and the process for making decisions;
- *clause 9* sets out the procedural rules for the Funding Board;
- *clause 10* provides for the Funding Board members to be paid remuneration;

- *clause 11* provides for the Funding Board to consult and enter into agreements with any body that provides funding to a specified amenity or is a potential source of funding;
  - *clause 12* empowers the Funding Board to appoint an advising officer to assist in carrying out its functions;
  - *clause 13* establishes the Auditor-General as the auditor of the Funding Board.
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A22

*Hon Judith Tizard*

## **Auckland Regional Amenities Funding Bill**

Private Bill

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### **Preamble**

- (1) Several arts, educational, rescue, and community organisations that are vital to the Auckland region contribute to the well-being of the whole region by providing facilities or services to the community.
- (2) The organisations are an essential part of the fabric of the Auckland region and are necessary to make the region a vibrant and attractive place to live in and visit. 5
- (3) A significant proportion of those who visit or use, or otherwise benefit from, the organisations come from all the territorial authority districts in the Auckland region. 10
- (4) The organisations currently receive their funding from a range of sources by way of grants made in response to annual or periodic applications. In particular, they make separate applications to each of the territorial authorities and various trusts for funding. The grants resulting from applications are often ad hoc and short term. 15
- (5) This process does not provide a secure funding stream for the organisations and it does not necessarily result in all the territorial authorities in the Auckland region making a contribution to the organisations' funding. 20
- (6) A statutory framework is needed to provide adequate and secure funding for the organisations by all the territorial authorities in the Auckland region.

- (7) The existing statutory frameworks for regional funding of the Auckland War Memorial Museum and the Museum of Transport and Technology provide a model for the funding of the organisations.
- (8) Territorial authorities funding the organisations should have a formal role, through the Electoral College, in the decisions on funding. 5

The Parliament of New Zealand therefore enacts as follows:

- 1 Title**  
This Act is the Auckland Regional Amenities Funding Act 2007. 10
- 2 Commencement**  
This Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1** 15  
**Preliminary provisions**

- 3 Purposes**
- (1) The first purpose of this Act is to establish a mechanism to provide adequate, sustainable, and secure funding for specified amenities that, by providing arts, education, rescue, or community facilities for or services to the Auckland region,— 20
- (a) contribute to the well-being of the region; and
- (b) contribute towards making Auckland a vibrant and attractive place to live in and visit.
- (2) The second purpose is to ensure that all the territorial local authorities in the Auckland region are part of the mechanism and so contribute towards the funding of the specified amenities. 25
- 4 Interpretation**
- In this Act, unless the context otherwise requires,— 30
- adjusted revenue from rates** means the revenue from rates of a contributing authority multiplied by the differential factor shown opposite the contributing authority's name in **Schedule 3**
- advisory officer** means the advisory officer appointed under **clause 12 of Schedule 4** 35

<b>Amenities Board</b> means the Amenities Board established by <b>section 10</b>	
<b>assessment criteria</b> means the assessment criteria in <b>section 13(1)</b>	
<b>Auckland region</b> means the region of the Auckland Regional Council	5
<b>contributing authority</b> means a territorial authority listed in the first column of <b>Schedule 3</b>	
<b>district</b> means,—	
(a) for the Franklin District Council, that part of the district within the Auckland region; and	10
(b) for every other contributing authority, the district of the contributing authority	
<b>Electoral College</b> means the Electoral College of territorial local authority representatives established by section 13(1) of the Auckland War Memorial Museum Act 1996	15
<b>establishment day</b> means the day 28 days after this Act comes into force	
<b>financial year</b> means the period starting on 1 July and ending with 30 June in the following year that is the financial year of the Funding Board	20
<b>first financial year</b> means the first full financial year after the commencement of this Act	
<b>fourth financial year</b> means the financial year after the third financial year	25
<b>Funding Board</b> means the Auckland Regional Amenities Funding Board established by <b>section 5</b>	
<b>funding principles</b> means the funding principles in <b>section 20</b>	
<b>long term plan</b> —	
(a) means a specified amenity's long term plan described in <b>section 21</b> ; and	30
(b) if the plan has been amended, means the plan as amended	
<b>public notice</b> means a notice published in 1 or more newspapers circulating in the Auckland region	35
<b>revenue from rates</b> means revenue from all rates set under the Local Government (Rating) Act 2002 except—	
(a) any targeted rate for water supply under section 19 of that Act; and	

- (b) in the case of the Franklin District Council, any rate set in respect of land outside the Auckland region

**second financial year** means the financial year after the first financial year

**specified amenity**—

- (a) means an organisation listed in **Schedule 1**; and  
 (b) includes an organisation that is the subject of a notice under **section 17** that has come into force under **section 19(3)**; and  
 (c) does not include an organisation described in **paragraph (a) or (b)** that is the subject of a notice under **section 18(6)** that has come into force under **section 19(3)**

**third financial year** means the financial year after the second financial year.

## Part 2 Funding mechanism

### Subpart 1—Administrative bodies

#### *Funding Board*

- 5 Establishment**  
 This Act establishes the Auckland Regional Amenities Funding Board. 20
- 6 Membership**
- (1) The Funding Board has 10 members.
- (2) The Electoral College appoints 5 members.
- (3) The Amenities Board appoints 5 members. 25
- (4) The members must be persons who have the management skills, experience, and professional judgment necessary to do the Funding Board's functions, in the opinion of those appointing them.
- (5) The following persons must not be appointed as members: 30
- (a) a person who is currently an elected or appointed member of a contributing authority; or
- (b) the chief executive of a contributing authority; or
- (c) an employee of a contributing authority; or
- (d) a current board member of a specified amenity; or 35
- (e) a current officer or employee of a specified amenity.

- 7 Charitable purposes**
- (1) The Funding Board is established exclusively for charitable purposes within New Zealand.
- (2) Every action that the Funding Board does under this Act is done exclusively for charitable purposes within New Zealand. 5
- (3) Every business that the Funding Board carries on under this Act is carried on exclusively for charitable purposes within New Zealand
- (4) No business that the Funding Board carries on under this Act is carried on for the pecuniary gain of any person. 10
- 8 Powers**
- For the purpose of performing its functions under this Act, the Funding Board—
- (a) has all the necessary rights, powers, and privileges; and
- (b) may exercise all the necessary rights, powers, and privileges; and 15
- (c) may incur all necessary liabilities and obligations.
- 9 Administration**
- The administrative provisions applying to the Funding Board are in **Schedule 4**. 20

*Amenities Board*

- 10 Amenities Board**
- This Act establishes the Amenities Board.
- 11 Function**
- (1) The Amenities Board's function is to make the appointments to the Funding Board required by **section 6(3)**. 25
- (2) The Amenities Board must make the appointments by majority vote.
- (3) If the votes are equal, the person presiding has a casting vote as well as a deliberative vote. 30
- (4) The person whom the members elect as chairperson must preside at all meetings of the Amenities Board at which he or she is present. If he or she is absent from a meeting, the members present must appoint one of their number to be the chairperson of the meeting. 35

- (5) The quorum of the Amenities Board is—
- (a) half of the members if the number of members is even; or
  - (b) a majority of members if the number of members is odd. 5
- (6) The Amenities Board may do its function even if there is a vacancy in its membership.
- (7) The Amenities Board must comply with **subsections (2) to (6)**, but otherwise regulates its own proceedings.
- 12 Membership** 10
- (1) Every specified amenity must appoint 1 representative to the Amenities Board.
  - (2) An appointment as a specified amenity's representative ends when the amenity or the representative ends the appointment.
  - (3) When an appointment as a specified amenity's representative ends, the amenity must appoint another representative. 15

### Subpart 2—Specified amenities

#### *Assessment criteria*

- 13 Assessment criteria**
- (1) The assessment criteria that the Funding Board and the Electoral College apply under **sections 16 to 18** are as follows: 20
    - (a) whether funding the organisation meets the purposes of this Act; and
    - (b) whether the organisation provides its facilities or services to residents of and visitors to the Auckland region; and 25
    - (c) whether the facilities or services that the organisation provides to residents of and visitors to the Auckland region are facilities or services that are not otherwise generally available; and 30
    - (d) whether the residents of the Auckland region visit or use, or otherwise benefit from, the organisation; and
    - (e) whether, according to independent market research, the residents of the Auckland region perceive the organisation as a regional one; and 35
    - (f) whether the organisation has proper governance and management structures; and

- (g) whether the organisation has structures for ensuring that any funding provided to it under this Act is used predominantly for the organisation's facilities or services; and
- (h) whether the organisation has operated within a properly prepared budget, annual business plan, and long term plan over the 5 years immediately before the date on which the Funding Board or the Electoral College applies this criterion; and 5
- (i) whether the organisation has audited financial accounts covering the 5 years immediately before the date on which the Funding Board or the Electoral College applies this criterion; and 10
- (j) whether the organisation is a registered charitable entity under the Charities Act 2005. 15
- (2) The Funding Board must monitor the specified amenities' compliance with the assessment criteria.
- 14 Discretion in application of assessment criteria**
- The Funding Board and the Electoral College each has an absolute discretion in deciding— 20
- (a) whether or not an organisation satisfies an assessment criterion; and
- (b) the extent to which an organisation satisfies an assessment criterion.
- Procedure* 25
- 15 Organisation applies to be specified amenity**
- (1) The Electoral College may invite organisations to apply to be a specified amenity.
- (2) The invitation must be given by public notice.
- (3) The public notice may require that applications be made only— 30
- (a) by a particular type of arts, educational, rescue, or community organisation; or
- (b) on terms that the Electoral College considers appropriate. 35
- (4) An application must—
- (a) be in the form that the Electoral College specifies in the notice; and

- (b) contain, or be accompanied by, any information that the Electoral College specifies in the notice.

**16 Funding Board assesses application**

- (1) The Funding Board must assess every application that the Electoral College receives under **section 15**. 5
- (2) The Funding Board's procedure for doing its assessments—
  - (a) must be determined by it; and
  - (b) may include hearing an applicant in person.
- (3) The Funding Board must give the Electoral College, in writing or electronically,— 10
  - (a) its assessment of whether an applicant satisfies—
    - (i) the requirements in the public notice, if there were any; and
    - (ii) the assessment criteria; and
  - (b) its recommendation on whether the applicant should or should not be a specified amenity; and 15
  - (c) its reasons for its assessment and recommendation.

**17 Electoral College decides whether organisation to be specified amenity**

- The Electoral College must— 20
- (a) receive the Funding Board's assessment and recommendation under **section 16**; and
  - (b) apply the assessment criteria; and
  - (c) decide whether an applicant is to be a specified amenity; and 25
  - (d) if an applicant is to be a specified amenity, give a notice under **section 19**.

**18 Electoral College decides whether organisation to be suspended or cease to be specified amenity**

- (1) This section applies if the Funding Board considers that a specified amenity no longer satisfies 1 or more of the assessment criteria. 30
- (2) The Funding Board may give a notice to the specified amenity requiring it to satisfy the criterion or criteria within such reasonable period as the board specifies. 35
- (3) The Funding Board must provide an opportunity for the amenity to be heard in relation to any notice before deciding that the