

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

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- 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; and
- 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; and
- sets criteria for new organisations to qualify for inclusion in the funding regime in the future.

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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

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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.

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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.

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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

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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

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of the territorial authorities in accordance with the plan, receive in 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

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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

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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:

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- 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, 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:

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- 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 can not 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 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

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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.

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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.

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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.

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- *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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Auckland Regional Amenities Funding Bill

Private Bill

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Schedule 1

Schedule 2

Schedule 3

Schedule 4

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Auckland Regional Amenities Funding 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.
- (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.
- (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.
- (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.
- (6) A statutory framework is needed to provide adequate and secure funding for the organisations by all the territorial authorities in the Auckland region.

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- (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.

The Parliament of New Zealand therefore enacts as follows:

1 Title

This Act is the Auckland Regional Amenities Funding Act 2007.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1

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,---
- (a) contribute to the well-being of the region;
and
- (b) contribute towards making Auckland a

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vibrant and attractive place to live in and visit.

- (2) The second purpose is to ensure that all of the territorial local authorities in the Auckland region are part of the mechanism and so contribute towards the funding of the specified amenities.

4 Interpretation

In this Act, unless the context requires otherwise,—

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**

Amenities Board means the Amenities Board established by **section 10**

assessment criteria means the assessment criteria in **section 13(1)**

Auckland region means the region of the Auckland Regional Council

contributing authority means a territorial authority listed in the first column of **Schedule 3**

district means,—

- (a) for the Franklin District Council, that part of the district within the Auckland region; and

- (b) for every other contributing authority, the district of the contributing authority

Electoral College means the Electoral College of territorial local authority representatives established

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by section 13(i) of the Auckland War Memorial Museum Act 1996

establishment day means the day 28 days after this Act comes into force

financial year 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

first financial year means the first full financial year after the commencement of this Act.

fourth financial year means the financial year after the third financial year

Funding Board means the Auckland Regional Amenities Funding Board established by **section 5**

funding principles means the funding principles in **section 20**

long term plan—

- (a) means a specified amenity's long term plan described in **section 21**; and
- (b) if the plan has been amended, means the plan as amended

public notice means a notice published in 1 or more newspapers circulating in the Auckland region

revenue from rates 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

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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.

6 Membership

- (1) The Funding Board has 10 members.
- (2) The Electoral College appoints 5 members.
- (3) The Amenities Board appoints 5 members.

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- (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:
 - (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
 - (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.
- (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.

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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
- (c) may incur all necessary liabilities and obligations.

9 Administration

The administrative provisions applying to the Funding Board are in **Schedule 4**.

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)**.
- (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.
- (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

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one of their number to be the chairperson of the meeting.

- (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.
- (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

- (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.

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:

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- (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
- (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
- (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
- (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

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- (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
 - (j) whether the organisation is a registered charitable entity under the Charities Act 2005.
- (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---

- (a) whether or not an organisation satisfies an assessment criterion; and
- (b) the extent to which an organisation satisfies an assessment criterion.

Procedure

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—
 - (a) by a particular type of arts, educational, rescue, or community organisation; or
 - (b) on terms that the Electoral College considers appropriate.

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- (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**.
- (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,---
 - (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
 - (c) its reasons for its assessment and recommendation.

17 Electoral College decides whether organisation to be specified amenity

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The Electoral College must—

- (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
- (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.
- (2) The Funding Board may give notice to the specified amenity requiring it to satisfy the criterion or criteria within such reasonable period as the Funding Board specifies.
- (3) The Funding Board must provide an opportunity for the amenity to be heard in relation to any notice before deciding that any amenity should be suspended or cease to be a specified amenity.
- (4) If the specified amenity does not satisfy the criterion or criteria within the period specified by the Funding Board, the Funding Board may give the Electoral College, in writing or electronically,—
 - (a) its recommendation on whether the applicant should be suspended from being or cease to be a specified amenity; and
 - (b) its reasons for its recommendation.
- (5) The Electoral College must—

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- (a) receive the Funding Board's recommendation; and
 - (b) apply the assessment criteria; and
 - (c) decide whether the specified amenity should be suspended from being or cease to be a specified amenity.
- (6) If the Electoral College decides that a specified amenity listed in **Schedule 1** should cease to be a specified amenity, the following provisions apply:
- (a) the Electoral College must request the Minister of Local Government to recommend to the Governor-General the making of an Order in Council amending **Schedule 1** by removing the name of the amenity; and
 - (b) on receiving the request, the Minister may make the recommendation; and
 - (c) on receiving the recommendation, the Governor-General may make the Order in Council; and
 - (d) on the making of the Order in Council, the Electoral College must give notice under section 19 that the amenity is no longer a specified amenity.
- (7) If the Electoral College decides that a specified amenity not listed in **Schedule 1** should cease to be a specified amenity, it must give notice under **section 19** that the amenity is no longer a specified amenity.

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19 Notices

- (1) The Electoral College gives a notice under **section 17 or 18** by publishing it in the *Gazette*.
- (2) The Electoral College must—
 - (a) notify the notice; and
 - (b) send a copy of the notice to each of the contributing authorities and the Amenities Board; and
 - (c) make copies of the notice available for inspection by members of the public free of charge.
- (3) A notice given under **section 17 or 18** comes into force—
 - (a) 28 days after the date of the notice's publication in the *Gazette*; or
 - (b) a later date specified in the notice.
- (4) A notice given under **section 17** that an organisation is a specified amenity lasts until a notice is given under **section 18** that the specified amenity is to cease to be a specified amenity.
- (5) A notice given under **section 17 or 18** is a regulation for the purposes of the Interpretation Act 1999, the Acts and Regulations Publication Act 1989, and the Regulations (Disallowance) Act 1989.

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Subpart 3—Funding process

Funding principles

20 Funding principles

- (1) The funding principles to which the Funding Board and the Electoral College must have regard under **sections 23 and 27** are as follows:
- (a) the primary purpose of the funding is to contribute to the expenses that the specified amenity must incur to provide its facilities or services; and
 - (b) funding is not available for capital expenditure; and
 - (c) funding is not available for any part of facilities or services that the specified amenity provides outside the Auckland region; and
 - (d) funding is not available for facilities or services that at any time in the 5 years immediately before the date on which the Funding Board or the Electoral College applies this paragraph have been provided funding by—
 - (i) a Crown entity, as defined in section 7(1) of the Crown Entities Act 2004; or
 - (ii) a department specified in Schedule 1 of the State Sector Act 1988; and

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- (e) funding for the retention and preservation of a specified amenity's library or collection takes priority over the amenity's other expenses; and
 - (f) funding is available only if the specified amenity has made reasonable endeavours to maximise its funding from other available funding sources; and
 - (g) total funding for all specified amenities assessed for a financial year must not exceed the maximum total levy for that year under **section 33**; and
 - (h) any other funding principle that the Electoral College publicly notifies under **subsection (3)**.
- (2) The Funding Board may recommend to the Electoral College that it add funding principles to those in **subsection (1)**.
- (3) The Electoral College—
- (a) may receive a recommendation from the Funding Board; and
 - (b) with or without a recommendation, may add funding principles; and
 - (c) must give public notice of the added funding principles.

Funding applications

21 Specified amenity may prepare long term plan

- (1) A specified amenity may—

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- (a) prepare a plan covering a period of at least 5 years and at most 10 years; and
 - (b) send the plan to the Funding Board.
- (2) The Funding Board may consider and approve the plan.
- (3) The Funding Board's approval of a plan is not a commitment by the Funding Board to provide funding for anything in the plan.

22 Specified amenity applies for funding

- (1) This section applies if a specified amenity seeks funding from the Funding Board for a financial year.
- (2) The specified amenity must apply to the Funding Board on or before 30 November in the year before the financial year for which funding is sought.
- (3) The application must include—
 - (a) a statement of the amount of funding that the specified amenity seeks from the Funding Board for the financial year; and
 - (b) any information that the Funding Board requires to assess the specified amenity's satisfaction of the assessment criteria currently and in the future; and
 - (c) a statement of how the application complies with the funding principles; and
 - (d) the specified amenity's annual plan for the financial year for which funding is sought prepared under **subsections (4) and (5)**.
- (4) The specified amenity's annual plan must state the following matters—

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- (a) the specified amenity's purpose; and
 - (b) the specified amenity's objectives; and
 - (c) the performance targets and other measures by which to assess the specified amenity's achievement of the objectives; and
 - (d) the nature and scope of the facilities or services to be provided by the specified amenity; and
 - (e) the indicative costs of the activities; and
 - (f) the sources of funds for the activities; and
 - (g) the details of any charges that the specified amenity proposes to make for the facilities or services.
- (5) The plan must state the matters—
- (a) in particular terms for the financial year for which funding is sought; and
 - (b) in general terms for each of the following 2 financial years.

23 Funding Board assesses application

- (1) The Funding Board must—
- (a) assess an application made by a specified amenity under **section 22**; and
 - (b) decide provisionally on the amount of funding to be provided to the specified amenity.
- (2) The Funding Board may request more information from the specified amenity for the purpose of making its assessment and provisional decision.

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- (3) The Funding Board need not include a specified amenity in the funding plan prepared under **section 24** if the amenity does not give the board the requested information by—
- (a) 30 November in the year before the financial year for which funding is sought;
 - or
 - (b) a later time that the board specifies.
- (4) In making its assessment and provisional decision, the Funding Board must have regard to—
- (a) the funding principles; and
 - (b) the specified amenity's long term plan, if it—
 - (i) includes the financial year for which funding is sought; and
 - (ii) has been approved under **section 21**.

Funding plans

24 Funding Board prepares draft funding plan

- (1) The Funding Board must prepare a draft funding plan for every financial year.
- (2) The draft funding plan must state the following matters for the financial year:
 - (a) the nature of the facilities or services to be provided by each specified amenity; and
 - (b) the funding sought by each specified amenity; and

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- (c) the amount of funding that the Funding Board proposes to grant to each specified amenity; and
 - (d) any conditions that the Funding Board proposes to impose on the provision of funding to a particular specified amenity; and
 - (e) the maximum amount of remuneration payable by the Funding Board to its members; and
 - (f) the maximum amount of remuneration payable by the Funding Board to its advisory officer; and
 - (g) the maximum amount of the board's reasonable administrative costs; and
 - (h) the total levy that the Funding Board proposes, which may not exceed the maximum total levy calculated under **section 33**; and
 - (i) any other information that is necessary to enable an informed assessment of the total levy that the Funding Board proposes.
- (3) The draft funding plan must state the matters—
- (a) in particular terms for the financial year to which the plan relates; and
 - (b) in general terms for each of the following 2 financial years.
- (4) The Funding Board must include in the draft funding plan an explanation of any significant changes between the total levy it proposes and the

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levy specified in the plan adopted for the immediately preceding financial year.

25 Funding Board and Electoral College confer over draft funding plan

- (1) The chairpersons of the Funding Board and the Electoral College must decide jointly—
 - (a) whether a meeting of the Electoral College is to be held to consider—
 - (i) the matter of the total levy that the board proposes in its draft funding plan; or
 - (ii) any other matter in the plan; and
 - (b) if a meeting is to be held, whether it is to be held jointly with the board or separately from it.
- (2) Every meeting of the Electoral College to consider a matter must be held before the draft funding plan is published under **section 26(1)(a)**.

26 Funding Board consults on draft funding plan

- (1) When the Funding Board is satisfied with its draft funding plan it must, as soon as is practicable,—
 - (a) publicly notify it; and
 - (b) send it to the Electoral College, the specified amenities, and the contributing authorities.
- (2) The Electoral College, a specified amenity, or any other person may make a written or electronic submission to the Funding Board on any matter in

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the draft funding plan within 1 month after the day on which the plan is publicly notified.

- (3) A contributing authority---
 - (a) may make a written or electronic submission to the Funding Board on any matter in the draft funding plan within 1 month after the day on which the draft plan is publicly notified; and
 - (b) must send a copy of the submission to the Electoral College.
- (4) The Funding Board must give a reasonable opportunity to every person who makes a submission to appear and be heard on the submission.
- (5) Meetings of the Funding Board, or a committee of the Funding Board, to hear submissions on the draft funding plan must be open to the public.
- (6) The Funding Board must—
 - (a) consider the submissions; and
 - (b) make any modifications to the draft funding plan that the board considers appropriate in light of the submissions; and
 - (c) refer the plan to the Electoral College; and
 - (d) request the Electoral College's approval of the board's recommendation on the total levy.

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27 Electoral College considers funding plan

The Electoral College must—

- (a) consider the Funding Board's recommendation on the total levy; and
- (b) decide whether or not to approve the recommended total levy, having regard to the funding principles; and
- (c) advise the Funding Board of its decision.

28 If Electoral College does not approve levy

- (1) This section applies if the Electoral College decides not to approve the recommended total levy under **section 27(b)**.
- (2) The dispute must be referred to an independent arbitrator.
- (3) The arbitrator must be appointed by—
 - (a) the Electoral College and the Funding Board jointly; or
 - (b) if they are unable to agree on the appointment, the Local Government Commission appointed under the Local Government Act 2002.
- (4) The arbitrator must—
 - (a) take into account the submissions of the Funding Board and the Electoral College; and
 - (b) take into account the Funding Board's duties; and

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- (c) decide on the total levy, which may not exceed the maximum total levy calculated under **section 33**.
- (5) The total levy that the arbitrator decides on is the total levy to be used by the Funding Board for the purpose of fixing the individual levies under **section 34**.
- (6) The Funding Board must reconsider its draft funding plan and the amount of funding it provisionally decided to provide to each specified amenity to take account of the total levy that the arbitrator decides on.

29 Funding Board adopts funding plan

- (1) The Funding Board must have a meeting to deliberate on and adopt its funding plan.
- (2) The meeting—
 - (a) must be open to the public; and
 - (b) must be held no later than 30 April immediately before the start of the financial year to which the plan relates.
- (3) Within 20 working days of adopting the funding plan, the Funding Board must—
 - (a) make a copy available for public inspection; and
 - (b) give public notice that a copy is available for public inspection; and
 - (c) send a copy to each contributing authority and each specified amenity.

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First financial year

30 Individual payments for first financial year

- (1) The Funding Board must pay each specified amenity the amount shown opposite the amenity's name in **Schedule 2** for the first financial year.
- (2) However, the Funding Board must not pay the amount to Auckland Zoo unless **section 42** applies before 1 July in the first financial year.
- (3) The Funding Board shall be paid \$300,000 for its administrative costs for the first financial year.
- (4) **Sections 21 to 29** do not apply in respect of the first financial year.

31 Individual levies for first financial year

- (1) The Funding Board must calculate the individual levy of each contributing authority for the first financial year using the formula---

$$\frac{\text{adjusted revenue}}{\text{total adjusted revenue}} \times \text{total amount}$$

- (2) The items in the formula are defined in **subsections (3) to (5)**.
- (3) **Adjusted revenue** means the adjusted revenue from rates of the contributing authority in the previous financial year.
- (4) **Total adjusted revenue** means the total adjusted revenue from rates of all contributing authorities in the previous financial year.
- (5) **Total amount** means the total amount to be paid under **section 30**.

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32 Contributing authorities pay levies for first financial year

- (1) This section applies to the individual levy of each contributing authority for the first financial year.
- (2) The contributing authority must pay the amount of the levy—
- (a) out of its general revenues; and
 - (b) to the Funding Board; and
 - (c) on the next 1 July after the commencement of this Act.

Funding levies

33 Maximum individual and total levies for financial years after the first financial year

- (1) The Funding Board must calculate the maximum individual levy of each contributing authority for each financial year after the first financial year using the formula—

$$\frac{\text{adjusted revenue}}{\text{total adjusted revenue}} \times \text{maximum total levy of contributing authorities}$$

- (2) The items in the formula are defined in subsections (3) to (5).
- (3) **Adjusted revenue** means the adjusted revenue from rates of the contributing authority in the previous financial year.
- (4) **Total adjusted revenue** means the total adjusted revenue from rates of all contributing authorities in the previous financial year.

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- (5) **Maximum total levy of contributing authorities**
is,—
- (a) for the second financial year is,—
 - (i) if **section 42** applies as at the specified date, \$16 million; or
 - (ii) if **section 42** does not apply as at the specified date, \$12 million; and
 - (b) for the third financial year is,—
 - (i) if section 42 applies as at the specified date, \$19 million; or
 - (ii) if section 42 does not apply as at the specified date, \$15 million; and
 - (c) for the fourth financial year and each following financial year, the amount equal to 2% of the total adjusted revenue from rates of all the contributing authorities in the previous financial year.
- (6) In **subsection (5)**, **specified date** means 30 November in the year immediately before the financial year for which the maximum total levy is being calculated.
- (7) For each financial year after the first financial year, the individual levy of each contributing authority must bear the same proportion to the total of the individual levies of all the contributing authorities as the maximum individual levy of that contributing authority bears to the maximum total levy of the contributing authorities.

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34 Funding Board resolves to fix individual levies

- (1) This section applies when the Funding Board has the following for a financial year after the first financial year:
 - (a) either—
 - (i) the Electoral College's approval of the total levy; or
 - (ii) the arbitrator's decision on the total levy; and
 - (b) an adopted funding plan.
- (2) The Funding Board must:
 - (a) fix the amounts of the individual levies of each contributing authority by way of resolution; and
 - (b) send a copy of the resolution to each contributing authority.
- (3) The Funding Board must comply with **subsection (2)** on or before 30 April before the financial year for which the levy is imposed.

35 Contributing authorities pay levies for financial years after the first financial year

- (1) This section applies to the individual levy of each contributing authority fixed in the resolution of the Funding Board under **section 34(2)**;
- (2) The contributing authority must pay the amount of the levy—
 - (a) out of its general revenues; and
 - (b) to the Funding Board; and
 - (c) on the next 1 July after the resolution.

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36 If contributing authority's district altered

- (1) This section applies if a contributing authority's district is altered because any of the following events occurs:
 - (a) the total or partial absorption of the district by another local authority, whether or not the local authority is a contributing authority; or
 - (b) the contributing authority absorbing all or part of another local authority's district, whether or not the local authority is a contributing authority; or
 - (c) the amalgamation of a contributing authority with another local authority, whether or not the local authority is a contributing authority; or
 - (d) the division of a contributing authority into 2 or more local authorities.
- (2) If any of the events occurs,—
 - (a) the area that was previously subject to a levy under this Act continues to be subject to a levy; and
 - (b) the previously applicable differential factor continues to apply for the purposes of calculating the adjusted revenue from rates in respect of the land in that area.
- (3) However, **subsection (2)** does not apply if any of **subsections (4) to (8)** applies.
- (4) The Funding Board—
 - (a) must apply the differential factor applicable to the absorbing contributing

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- authority to an area absorbed from another contributing authority; and
- (b) must do so for the year after the absorption and all later years.
- (5) The Funding Board must not take any account of the fact that the occurrence of an event may result in part only of the district of a local authority being levied.
- (6) The Funding Board is not authorised by **subsection (4) or (5)** to impose a levy on an area that is outside the contributing authorities' districts when this Act comes into force.
- (7) **Subsection (8)** applies when the Local Government Commission is exercising its jurisdiction over the constitution, alteration, union, or abolition of a territorial authority's district.
- (8) The Commission may---
- (a) review the effect of **subsections (4) and (5)** on the matter before it; and
- (b) if the Commission considers it appropriate, make a decision that---
- (i) has an effect different from the effect that the subsections have; and
- (ii) applies for the period that the Commission considers appropriate.

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Funding payments

37 Funding Board pays funding

- (1) This section applies to the funding payable to a specified amenity under the Funding Board's approved funding plan for a financial year.
- (2) The Funding Board must—
 - (a) pay the funding to the specified amenity; and
 - (b) do so as soon as is practicable after 12 July and no later than 15 August in the year; and
 - (c) tell the specified amenity about any conditions in the approved funding plan on the provision of funding.

Subpart 4—Reporting

38 Specified amenity does annual report

- (1) This section applies to a specified amenity that has received or is receiving funding under this Act for a financial year.
- (2) The specified amenity must prepare a report that—
 - (a) assesses the amenity's application of the funding against the matters specified in the amenity's annual plan for the year under **section 22(4)**; and
 - (b) contains financial statements for the year consisting of—
 - (i) a statement of financial position prepared in accordance with the

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New Zealand International
Financial Reporting Standards;
and

- (ii) an overall operating statement;
and
 - (iii) a statement of cash flows; and
 - (iv) any other statements necessary to
fairly reflect the amenity's
financial position, the resources
available to it, and the financial
results of its operations; and
 - (v) any other information reasonably
necessary to enable the Funding
Board to make an informed
assessment of the amenity's
operations for the financial year
as set out in its annual plan.
- (3) Where a specified amenity has the same financial year as the Funding Board, the financial statements provided under **subsection (2)(b)** must be audited and the annual report must contain the auditor's report.
- (4) Where a specified amenity has a different financial year to that of the Funding Board, the financial statements provided under **subsection (2)(b)** need not be audited but **subsection (5)** applies.
- (5) Where **subsection (4)** applies, the specified amenity—
- (a) must prepare audited financial statements for the financial year for the specified amenity; and

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- (b) provide those audited financial statements and auditor's report to the Funding Board within three months after the end of the specified amenity's financial year.
- (6) The specified amenity must prepare the report and send it to the Funding Board within 3 months after the end of the financial year to which it relates.

39 Funding Board does annual report

- (1) The Funding Board must, at the end of every financial year, prepare a report that---
- (a) assesses the Funding Board's performance; and
 - (b) assesses the performance of each of the specified amenities, taking into account their annual reports under section 38; and
 - (c) contains audited financial statements for the year consisting of—
 - (i) a statement of financial position of the Funding Board; and
 - (ii) an overall operating statement of the Funding Board; and
 - (iii) a statement of cash flows of the Funding Board; and
 - (iv) any other statements necessary to fairly reflect the board's financial position, the resources available to it, the financial results of its operations, and the financial results of the specified amenities' operations; and

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- (d) contains the auditor's report on the financial statements; and
 - (e) contains any other information necessary to enable an informed assessment of the operations of the Funding Board and the specified amenities for the financial year as set out in the board's funding plan adopted for the financial year.
- (2) The Funding Board must adopt the report within 5 months after the end of the financial year to which it relates.
- (3) Within 20 working days of adopting the report, the Funding Board must—
- (a) make a copy available for public inspection; and
 - (b) give public notice that a copy is available for public inspection; and
 - (c) send a copy to each contributing authority and the Amenities Board.

40 Contributing authority's annual report

Every contributing authority must include information about its dealings with, and payments to, the Funding Board in its annual report under section 98 of the Local Government Act 2002.

Subpart 5—Miscellaneous provisions

41 Specified amenities may seek other funding

- (1) This section applies to a specified amenity that has received or is receiving funding under this Act.

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- (2) The specified amenity may receive public funding from any other funding agencies or sources, including—
- (a) a central government agency; and
 - (b) a department specified in Schedule 1 of the State Sector Act 1988.
- (3) The specified amenity may not receive funding from a contributing authority for expenses that have been or are being funded under this Act.

42 Auckland Zoo

- (1) In this section, **Auckland Zoo** means the Auckland City Council undertaking known as the Auckland Zoo or the Auckland Zoological Park.
- (2) This section applies if the Auckland Zoo—
- (a) is established as a legal entity that—
 - (i) carries out the functions of the Auckland Zoo; and
 - (ii) is separate from the Auckland City Council; and
 - (b) registered as a charitable entity under the Charities Act 2005.
- (3) On and from the date of the establishment and registration, the Auckland Zoo—
- (a) is treated as if it were listed in Schedule 1; and
 - (b) is subject to this Act.

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Subpart 6—Transitional provisions

43 Funding Board: first appointments

- (1) As soon as is practicable after this Act comes into force,—
 - (a) the Electoral College must meet and appoint members of the Funding Board under **section 6(2)**; and
 - (b) the Amenities Board must meet and appoint members of the Funding Board under **section 6(3)**.
- (2) The following provisions apply to the first members appointed to the Funding Board:
 - (a) of the 5 members appointed under **section 6(2)**, 3 hold office for a term of 2 years and 2 for a term of 3 years; and
 - (b) of the 5 members appointed under **section 6(3)**, 2 hold office for a term of 2 years and 3 for a term of 3 years; and
 - (c) whether a member holds office for a term of 2 years or 3 years must be determined by lot, unless the members agree on a different method.
- (3) The term of office of a Funding Board member to whom **subsection (2)** applies ends on the 30 May—
 - (a) the second year after the member is appointed if the member's term is 2 years; and
 - (b) in the third year after the member is appointed if the member's term is 3 years.

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- (4) If the Funding Board does not have at least 6 members by the establishment day, the board must not do any function or duty, or exercise any power, under this Act.
- (5) **Clause 4(6) of Schedule 4** applies to—
 - (a) the first Funding Board appointed after the establishment day with 10 members; and
 - (b) every later board.

44 Funding Board: first actions

- (1) The chairperson of the Electoral College must call the first meeting of the Funding Board as soon as is practicable after the establishment day.
- (2) The chairperson of the Electoral College must chair the first meeting until the Funding Board's members elect a chairperson.
- (3) At its first meeting, the Funding Board must—
 - (a) elect 1 of the 5 members appointed by the Electoral College under **section 6(2)** as chairperson; and
 - (b) elect any member as deputy chairperson.
- (4) The Funding Board must, as soon as is practicable, adopt appropriate procedural rules to govern its operations and the conduct of its meetings.
- (5) **Section 24(4)** does not apply to the first draft funding plan that the Funding Board prepares.

45 Amenities Board: first actions

- (1) The first appointments to the Amenities Board must be made before the establishment day.

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(2) The first meeting of the Amenities Board must be held as soon as is practicable after this Act comes into force to appoint members of the Funding Board under **section 6(3)**.

(3) The first meeting may be called by any of the Amenities Board's members.

(4) At its first meeting, the Amenities Board must elect one of its members as chairperson.

46 Termination of contracts or agreements between specified amenities and contributing authorities

(1) This section applies to a contract or agreement that—

—
(a) is made between a specified amenity and a contributing authority; and

(b) is made for the purpose of funding the specified amenity; and

(c) is in force on 1 July of the first financial year after this Act comes into force in which funding is to be received by the specified amenity under this Act.

(2) The contract or agreement is terminated on the 1 July described in **subsection (1)(c)**.

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Schedule 1
Specified amenities

s 4

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

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Schedule 2
Funding for First Financial Year

s21

Specified amenity	Amount of Funding
Auckland Observatory and Planetarium Trust Board	\$500,000
Auckland Philharmonia	\$1,500,000
Auckland Regional Rescue Helicopter Trust	\$1,500,000
Auckland Theatre Company Limited	\$800,000
Auckland Zoo	\$4,000,000
Coastguard Northern Region Incorporated	\$500,000
New Zealand National Maritime Museum Trust Board	\$1,000,000
New Zealand Opera Limited	\$500,000
Surf Life Saving Northern Region Incorporated	\$700,000
The Auckland Festival Trust	\$1,200,000
WaterSafe Auckland Incorporated	\$500,000

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Schedule 3
Contributing authorities and differential factors

s 4

Territorial authority	Differential factor
Auckland City Council	1.0
Franklin District Council	0.6
Manukau City Council	1.0
North Shore City Council	1.0
Papakura District Council	1.0
Rodney District Council	0.6
Waitakere City Council	1.0

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Schedule 4

Administrative provisions for Funding Board

s 9

1 Nature

- (1) The Funding Board has perpetual succession.
- (2) The Funding Board is not a council-controlled organisation for the purposes of the Local Government Act 2002.

2 Independence

In doing the functions and duties, and exercising the powers, of the Funding Board, the members must act independently of—

- (a) the body that appointed them; and
- (b) the contributing authorities; and
- (c) the specified amenities.

3 No personal liability

Funding Board members are not personally liable for acts done or defaults made—

- (a) in good faith; and
- (b) in the course of the Funding Board's operations; and
- (c) by—
 - (i) the Funding Board, or
 - (ii) a Funding Board member.

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4 Terms of office

- (1) Every Funding Board member is appointed for a term of 3 years starting on the day after the date on which the previous term ends.
- (2) **Subclause (1)** does not apply to members appointed under **section 43** or **clause 6(3)**.
- (3) Every member is eligible for reappointment.
- (4) **Subclause (5)** applies to a member to whom the following apply:
 - (a) his or her term of office ends; and
 - (b) he or she has not resigned his or her office; and
 - (c) he or she is not in a situation described in clause 6(1).
- (5) The member continues to hold office by virtue of his or her appointment until—
 - (a) he or she is reappointed; or
 - (b) his or her successor is appointed.
- (6) The Funding Board's functions, duties, and powers are not affected by a vacancy in its membership.

5 Resignations

- (1) A Funding Board member may resign his or her office by giving a notice in writing or electronically to the advisory officer.
- (2) A member who resigns his or her office on terms that permit him or her to continue in office may do so by virtue of his or her appointment until his or her successor is appointed.

6 Extraordinary vacancies

- (1) This clause applies if any Funding Board member is in

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one of the following situations:

- (a) the member dies; or
- (b) the member resigns his or her office on terms that do not permit his or her continuing to hold office; or
- (c) the member is absent without leave from 2 consecutive Funding Board meetings; or
- (d) the member becomes an elected or appointed member of a contributing authority; or
- (e) the member becomes the chief executive of a contributing authority; or
- (f) the member becomes an employee of a contributing authority; or
- (g) the member becomes a board member of a specified amenity; or
- (h) the member becomes an employee of a specified amenity; or
- (i) the member is declared bankrupt; or
- (j) the member becomes the subject of an order under section 383 of the Companies Act 1993; or
- (k) the member becomes subject to a compulsory treatment order made under Part 2 of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or
- (l) the member becomes a special patient as defined in section 2(1) of the Mental Health (Compulsory Assessment and Treatment) Act 1992; or
- (m) the member becomes the subject of an order under the Protection of Personal and Property

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Rights Act 1988; or

- (n) the member is convicted of an offence punishable by a term of imprisonment of 2 years or more.
- (2) If a member is in one of these situations,—
 - (a) his or her term of office ends; and
 - (b) the vacancy is an extraordinary vacancy.
- (3) An extraordinary vacancy must be filled in the same way as the appointment to the vacant office was originally made. The member appointed holds office only for the rest of the vacating member's term.
- (4) If an extraordinary vacancy occurs within 6 months before the date fixed for the next appointment to the office that has been vacated, the appointing body may decide not to fill the vacancy.

7 Chairperson and deputy chairperson

- (1) The Funding Board must annually—
 - (a) elect 1 of the 5 members appointed by the Electoral College under **section 6(2)** as chairperson; and
 - (b) elect any member as deputy chairperson.
- (2) The chairperson and deputy chairperson may stand for re-election.
- (3) The chairperson of the Funding Board—
 - (a) must preside at all meetings of the Funding Board at which he or she is present; and
 - (b) has the functions, duties, and powers that the board delegates to him or her from time to time.
- (4) The deputy chairperson must act in place of the chairperson in any case where the chairperson—

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- (a) is absent; or
- (b) is unable to act or any other reason.

8 Meetings

- (1) If the chairperson and the deputy chairperson are absent from a meeting, the members present must appoint one of their number to be the chairperson of the meeting.
- (2) A quorum for a meeting of the Funding Board is a majority of its members.
- (3) The Funding Board must decide every question before it in open voting by a majority of the votes recorded on it.
- (4) The person presiding at a meeting of the Funding Board has a deliberative vote and, if the votes are equal, also has a casting vote.
- (5) Meetings of the Funding Board must be conducted in public unless good grounds exist for excluding the public.
- (6) Part 7 of the Local Government Official Information and Meetings Act 1987 applies to the Funding Board as if it were a local authority subject to that Part.

9 Procedural rules

The Funding Board may regulate its own proceedings on matters not specifically dealt with in this Act.

10 Remuneration

- (1) The Funding Board must decide how much to pay its members.
- (2) The Funding Board must decide to pay an amount that

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is appropriate having regard to—

- (a) the public purpose of its functions; and
 - (b) the extent of public funding of its operations.
- (3) The Funding Board must not pay a member in a financial year an amount greater than that specified for the payment of a member in the funding plan adopted for the year.

11 Dealings with other bodies

The Funding Board may liaise, consult, and, if it considers necessary, enter into agreements with any body that—

- (a) provides funding to a specified amenity; or
- (b) is a potential source of funding for a specified amenity.

12 Advisory officer

- (1) The Funding Board may appoint an advisory officer to assist it in doing its functions.
- (2) However, if the Electoral College requires it, the advisory officer must be a person seconded for service from one of the contributing authorities.
- (3) The advisory officer is responsible to the Funding Board for--
 - (a) implementing the board's decisions; and
 - (b) ensuring that the board's operations are conducted in a transparent and accountable manner; and
 - (c) providing services and advice to board members; and
 - (d) ensuring the effective, efficient, and economic

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management of the board's operations and planning; and

- (e) doing any other functions that the board delegates to him or her.

13 Auditor

- (1) The Auditor-General is the Funding Board's auditor.
- (2) For the purpose of auditing the Funding Board, the Auditor-General—
 - (a) has and may do all the Auditor-General's functions and duties under the Public Audit Act 2001; and
 - (b) has and may exercise all the Auditor-General's powers under the Public Audit Act 2001.

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