

## 2. Overview

This section gives a broad overview of Auckland Council and explains how its various structures fit together.

### 2.1 What is Auckland Council

- a. Auckland Council is the local authority that is responsible for all local government decisions and responsibilities in the Auckland region.
- b. In New Zealand, central government has created a local government structure for every region and district in New Zealand. The key piece of legislation setting out local government responsibilities and powers is the Local Government Act 2002. The purpose of this Act is to make sure that there is “*democratic and effective local government that recognises the diversity of New Zealand communities*” [1]. This is done through every region and district having a “local authority” that is accountable to their community, and plays a broad role in meeting the current and future needs of their communities for good-quality local infrastructure, local public services, and performance of regulatory functions [2].
- c. New Zealand has two types of local authorities – territorial authorities (comprising district and city councils) and regional councils. Auckland Council is a territorial authority which also has the responsibilities, duties and powers of a regional council [3]. This makes Auckland Council a “unitary authority”. Other unitary authorities include Gisborne District Council and Nelson City Council. Auckland Council, like all other local authorities, is also subject to the Local Government Act 2002 and other Acts that apply to local government, but has additional legislation unique to Auckland.
- d. Auckland Council was created in November 2010 through the Local Government (Auckland Council) Act 2009. Auckland Council replaced seven territorial authorities and the Auckland Regional Council with the intent to deliver strong regional decision-making, complemented by decisions that meet diverse local needs and interests
- e. Auckland Council’s governance is unique – it is the only local authority in New Zealand with a two tier governance structure comprising the governing body and 21 local boards, and where decision-making responsibilities of Auckland Council are shared between the governing body and local boards [4]. The Independent Māori Statutory Board is another unique element in the governance structure.
- f. The Local Government (Auckland Council) Act sets out the statutory responsibilities of the governing body and local boards. It also provides principles for the governing body to decide how to allocate non-regulatory activities to itself or local boards; and the governing body’s ability to delegate some responsibilities to local boards. For further information, see Section 10: How council decisions are made. Allocation is

different to delegation. Once an activity is allocated to a local board, responsibility for that activity is with the local board, not with the governing body. The list of governing body and local board responsibilities is set out every year in the council annual plan (or the long-term plan). These can be viewed here.

## 2.2 Purpose, role, status, powers and functions

The purpose, role, status, powers and functions for local authorities generally are set out in the Local Government Act [1].

a. The **purpose** of local government is to:

- enable democratic local decision-making and action by, and on behalf of, communities
- meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.

While the phrase “democratic local decision-making and action by, and on behalf of, communities” is not defined, it generally includes the following concepts:

- i) local government demonstrates local democracy, as opposed to central government, which generally makes decisions in the national interest
- ii) decision-making is carried out by democratically-elected community representatives who are held accountable at the triennial elections
- iii) decision-making is carried out on behalf of communities and considers their views.

The Local Government Act requires councils to consider community views in proportion to the significance of decisions and the extent to which people are impacted; the greater the significance, the greater the obligation to make sure that the council knows what the community’s views are (see Section 10.4.2 (d)). For significant decisions, the council will consult the community.

b. The **role** of a local authority is to:

- give effect, in relation to its district or region, to the purpose of local government; and
- perform the duties, and exercise the rights, conferred on it by or under the Local Government Act (and any other enactment).

c. The **core services** that local authorities must consider, when they are carrying out their role include:

- network infrastructure
- public transport services
- solid waste collection and disposal
- the avoidance or mitigation of natural hazards

- libraries, museums, reserves, recreational facilities and other community infrastructure.

**d. Status**

- A local authority is a corporate body which continues to exist despite changes in membership [2]. As a legal entity it can hold property and enter contracts in its own name; it is separate to any of the individuals that comprise the elected governors or management.

**e. Powers**

- Before 2002, local government powers were each specifically set out in the legislation. The Local Government Act 2002 changed this so that a council has full capacity and powers to do anything to fulfil its role [3]. Constraints around this power include:

i) a council must always give effect to its 'role' – that is, to fulfil the purpose of local government and other duties conferred on it by statute

ii) a council is subject to the Local Government Act, other statutes and the general law

iii) a council must exercise its powers wholly or principally for the benefit of its area; there are some exceptions to this, including the ability to donate to an emergency relief effort outside its area.

The implication of being subject to the Act means that a council can still only spend money on projects that have been properly approved.

## **2.3 Principles of Local Government**

a. The Local Government Act sets out principles relating to local authorities. These include:

- openness and transparency
- democratic accountability
- implementing desired outcomes effectively and efficiently
- being aware of community views
- taking the long-term view
- recognising diversity
- providing Māori with opportunities to contribute to decision-making
- working collaboratively with other authorities
- using sound business practice in commercial undertakings
- being a prudent steward of assets
- taking a sustainable approach.

For further information, see Section 14: Ceremonies and other conventions.

- b. As a public body exercising statutory functions, the council must act according to the general public law principles of legality, accountability, rationality and fairness. For further information see Section 10.2: The types of decisions the council makes. This means that when making decisions the council:
- must act within the scope of its legal powers
  - must act reasonably and its decisions must be supported by reasoned justifications
  - must act fairly and follow proper processes in its decision-making
  - is democratically accountable for its actions and decisions.
- c. These principles are reflected in the Local Government Act which sets out a number of principles that govern the council's overall actions [1]. In particular, in its governance role, the council must:
- ensure that its role, and the expected conduct of elected members, is clear and understood by elected members and the community
  - ensure that its governance structures and processes are effective, open, and transparent
  - ensure that, so far as is practicable, decision-making processes are separated for regulatory and non-regulatory responsibilities
  - be a good employer
  - ensure that the relationship between elected members and management of the council is effective and understood.
- d. The purpose of these principles is to ensure the council acts responsibly, fairly, and transparently, and is democratically accountable in its decision-making. Where there is a conflict between any of these principles, the council should resolve that conflict in an open, transparent and democratically accountable way [2].

#### **2.4.1 Auckland Council powers and responsibilities**

- a. In addition to the powers, responsibilities and duties set out in the Local Government Act, the Local Government (Auckland Council) Act sets out the decision-making responsibilities of the governing body and local boards and the unique governance structure. Under the scheme:
- Both the governing body and local boards are responsible and democratically accountable for the decision-making of Auckland Council.
  - Whether responsibility for making any particular decision rests with the governing body or one or more of the local boards depends on the nature of the decision being made [1].

#### **2.4.2 Auckland Council's structures and how they fit together**

- a. Auckland Council is a unitary authority with decision-making shared between the governing body (mayor and councillors) and local boards.

- b. The governing body appoints the chief executive who is responsible for employing all Auckland Council staff. The chief executive advises the governing body and local boards, and is responsible for implementing their decisions.
- c. The legislation creating Auckland Council also established council-controlled organisations (CCOs). CCOs are part of the council group and manage key activities including roading, public transport, water and wastewater. More detail – including the legislative status of the CCOs and which exist at the discretion of the council – can be found here.
- d. In setting up Auckland Council, Parliament established the Independent Māori Statutory Board (see Section 7). This board provides advice to the council to assist the council with its decision-making by promoting matters of significance to Māori and ensuring the council meets its statutory obligations relating to Māori and the Treaty of Waitangi, and also nominating members to council committees that deal with the management and stewardship of natural and physical resources.

### **2.4.3 Leadership**

- a. The mayor is the head of the council's governing body and provides leadership to other elected members and the organisation (see Section 4). The mayor's powers are set out in the Local Government (Auckland Council) Act and include:
  - promoting a vision for Auckland
  - providing leadership to achieve the vision
  - leading the development of council plans, policies and budgets
  - ensuring effective engagement between Auckland Council and the people of Auckland.
- b. The mayor is also responsible for appointing the deputy mayor, establishing the governing body's committees and appointing committee chairs.
- c. Local boards provide local leadership. They were established to enable democratic decision-making by, and on behalf of, communities within their area and to better enable the purpose of local government to be given effect to within the local board area [1].
- d. Local board functions, duties and powers, include:
  - developing a local board plan every three years in consultation with its community
  - undertaking allocated decision-making (see the Allocation Table)
  - monitoring and implementing the local board agreement
  - communicating with community organisations within its local board area
  - undertaking responsibilities delegated to it
  - considering and reporting issues [2].

#### **2.4.4 Who speaks for Auckland Council?**

- a. A range of people can speak for Auckland Council, depending on the context. The mayor is the spokesperson for the governing body. However, if decision-making on a matter is delegated to a committee then the committee chair will act as spokesperson.
- b. A local board chair is the spokesperson for the local board. The chief executive is the spokesperson for operational or staff matters.
- c. These relationships are set out in the council's Code of Conduct.

#### **2.4.5 The council and the people of Auckland**

- a. After being elected, but before members can act, members must make a declaration that they will act in the best interests of the area for which they are responsible. For governing body members, this means acting in the best interests of Auckland as a whole; for local board members, acting in the best interests of their respective local board area.
- b. Ward councillors are elected on a ward basis to ensure effective representation of the communities contained within wards. However, councillors are required to act in the best interests of the whole of Auckland and need to be careful local concerns do not dominate.
- c. Local board members are elected to ensure effective representation of the communities contained within the local board area. Some local boards are split into subdivisions. Local board members who are elected on the basis of subdivisions should also take care that they act in the best interests of the local board area, so that the interests of the communities in the subdivision do not dominate the interests of communities within the wider local board area.
- d. It can be confusing for constituents to know who to approach. Essentially, constituents can go to councillors for regional matters, including rates, and local board members for local matters. However, ward councillors and local board members may need to work together to resolve some issues.

#### **2.4.6 Funding**

- a. The council has a range of funding sources for capital and operating expenditure. Rates are the most well-known source, however, rating makes up less than half of the council's income. Other funding sources include:
  - grants and subsidies, including government subsidies
  - development or financial contributions
  - targeted rates
  - CCO profits and net rental and interest/dividends from investments
  - borrowing (loans and bonds)
  - fees and charges
  - trusts, bequests and other reserve funds

- surpluses
  - other funding sources
- b. The full range of funding sources, and how the council applies these to fund particular council activities, is set out in the council's revenue and financial policy.
  - c. The council is required to make sure that each year operating revenues are set at a level sufficient to meet that year's projected operating expenses. This is called the "balanced budget" requirement. Each year the council adopts an annual plan setting out the revenues and expenses. There can be circumstances when the council can set revenues at a different level to its expenses, provided that it is still financially prudent to do so.
  - d. Each year, by 30 June, the council adopts an annual plan setting out the council budget for the next financial year (starting from 1 July), and summarising the expected revenue and expenses. The council then sets any rates for that financial year.

## **2.5 Footnotes**

### **2.1 What is Auckland Council**

[1] Section 3 Local Government Act 2002

[2] Section 3 Local Government Act 2002

[3] Section 6 Local Government (Auckland Council) Act 2009

[4] Section 7 Local Government (Auckland Council) Act 2009

### **2.2 Purpose, role, status, powers and functions**

[1] Sections 9 – 13 Local Government Act 2002

[2] Section 12 Local Government Act 2002

[3] Section 12 Local Government Act 2002

### **2.3 Principles of Local Government**

[1] Sections 14(1) and 39 section 12 Local Government Act 2002

[2] Section 14(2) Section 12 Local Government Act 2002

### **2.4.1 Auckland Council powers and responsibilities**

[1] Section 14 Local Government (Auckland Council) Act 2009

### **2.4.3 Leadership**

[1] Section 10 Local Government (Auckland Council) Act 2002

[2] Section 14 Local Government (Auckland Council) Act 2002

## **Key Documents**

**Appointment and Remuneration Policy for Boards Members of Council Organisation**

**Civil Defence Emergency Management Act 2002**

**Code of Conduct**

**Code of conduct for elected members**

**Interpretation Act 1999**

**Ngāti Whātua Orākei Claims Settlement Act 2012**

**Ngāti Whātua o Kaipara Claims Settlement Act 2013**

**Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008**

**Local Boards Standing Orders**

**Local Electoral Act 2001**

**Local Government Act 2002**

**Local Government (Rating) Act 2002**

**Local Government (Auckland Council) Act 2009**

**Local Government Official Information and Meetings Act 1987**

**Public Audit Act 2001**

**Standing Orders**