

CHiLD POVERTY ACTION GROUP

Child Poverty Action Group

Box 56-150

Mt Eden

Web address: www.cpag.org.nz

Auckland Governance Legislation Select Committee

Parliament Buildings

Wellington

Submission:

Local Government (Auckland law Reform) Bill

Child Poverty Action Group thanks the Select Committee for the opportunity to submit on this important Bill. Child Poverty Action Group (CPAG) comprises a group of academics and workers in the field dedicated to achieving better policies for children. The aims of our organisation are:

- The development and promotion of better policies for children and young people.
- Sharing information and connecting with other groups with similar concerns.
- Elimination of child poverty in Aotearoa New Zealand by 2020

Along with other children's agencies, we are very concerned about the implications of this Bill on children and young people. We urge Committee members to carefully consider the impacts of this legislation on the most vulnerable children in the community, and to act in their best interests.

Contact:

Donna Wynd, donna@kiwilink.co.nz; (mob) 021-2377-779

We wish to speak to our submission.

Introduction

- [1] Child Poverty Action Group submits that the restructuring of Auckland's local government offers an opportunity for Parliament to make Auckland a child-friendly city.¹ The key to a child-friendly city is a governance structure that makes space for children's best interests at the centre of local democracy and community-based decision-making. This needs to be supported by local services easily accessible by safe, cheap and environmentally-friendly transport modes such as walking and cycling. A vision of Auckland as a safe and nurturing environment for *all* the children in the region underlies this submission.
- [2] For this reason we submit that this Bill needs to make provisions in fact for its stated desire to improve community engagement. There is little of substance in the Bill that supports this aim. A genuine effort to engage Auckland's multiple and varied communities is needed so that this restructuring is not merely the latest in a series of politically unsustainable Auckland governance structures. A city that provides well for its children provides well for all, and stands a greater chance of enduring in the long run. We urge the Committee to look beyond the business model embedded within this Bill, and, in terms of the Local Government Act 2002, develop a model that improves children's social, economic, environmental and cultural wellbeing.
- [3] In light of what this Bill should aspire to, CPAG has two key concerns. The first is the undemocratic nature of the Bill overall. It undermines local communities by placing too much power in the hands of central government in the first instance, and thence to unelected CCOs. It also enables the privatisation of Auckland's public assets (except water) prior to the 2013 local body elections, which will effectively preclude Aucklanders having any real say about what should happen to those assets.
- [4] We come to the CCOs later in this submission. Here we note that the evidence of the last 25 years shows that the privatisation of public assets does not lead to improvements in efficiency, but does lead to higher prices. New Zealand's so-called "light handed" regulatory regime for monopolies mean consumers now

¹ <http://www.childfriendlycities.org/>

pay significantly more for services such as electricity than should be the case.² The households most likely to suffer are those with children, particularly households headed by single parents. In Auckland, these households tend to be concentrated in low-income suburbs. Figures from the 2006 census show that it is the poorest suburbs that have the highest numbers of children under 15. Their needs cannot be ignored if we aspire to social cohesion – indeed a lack of social cohesion within the region will make any democratic deficit that emerges from the present restructuring untenable in the long run.

- [5] CPAG has significant concerns about how little say communities will get in what happens to them and their neighbourhoods. Under the Bill, it appears the best many low-income communities can hope for is that the changes result in benign neglect. Unfortunately, this Bill provides for the centralisation of power and the appointment of unelected and unaccountable officials. We fear that many households will find themselves facing additional costs with no compensating improvement in their ability to be heard through the democratic process. In a democracy, no taxation without representation should apply to all, not a select few.
- [6] We would also like to voice our misgivings about the rushed nature of the legislative process around Auckland's restructuring. The Royal Commission released its report in March 2009. Since then communities have had to submit on three complex pieces of legislation as well as boundary changes. This present Bill is 184 pages long, and was not available for public scrutiny until almost Christmas. The submission time has been far too short, and we fear the public has had insufficient time to understand and comment on the provisions of this important Bill.
- [7] We believe that this Bill in its present form takes power away from communities, and thereby undermines the key principle that can transform Auckland into a child-friendly city. We hope that the Committee can address some of the issues below, and redress the balance and create the basis for a super city for *all* Aucklanders.
- [8] Below we submit on the clauses contained in the Bill.

Clause 17

- [9] This provides for the Auckland Transition Agency (ATA) to make the initial allocation of decision-making responsibility for the non-regulatory activities between the Council and its local boards.

² Bertram, G. and Twaddle, D., (2005), *Price-cost margins and profit rates in New Zealand electricity distribution networks since 1994: the cost of light handed regulation*, Journal of Regulatory Economics, 27:3 281-307.

[10] We submit these responsibilities must be set out in legislation and not delegated to unelected, unaccountable officials. The delegation of local board responsibilities to the ATA undermines local democracy.

[11] In addition, we submit that local boards should have a baseline budget formula set out in legislation. A baseline budget formula would need to incorporate:

- Population of the ward
- The socio-economic need of the ward. This is especially relevant to ensuring children receive an equitable allocation of the regions' resources.
- The planned growth of the ward. There are numerous examples of councils cutting funding for projects to wards where the existing social infrastructure is insufficient to cope with the existing population yet those same wards are designated high growth nodes. These areas, for example Otahuhu, Panmure and Henderson, tend to have high numbers of children under 15.

Clause 24

[12] New section 35G. This section permits the Minister of Local Government through Order in Council, rather than democratically elected local politicians, to decide which of the Auckland Council's functions are to be carried out by Council Controlled Organisations (CCOs), and to establish the CCOs.

[13] We submit the CCO objectives and governance structures must be set out in the legislation.

[14] New section 35H. This provides for the Minister of Local Government to appoint the initial directors of all of the CCOs. This undermines local democracy.

[15] We submit that Directors of CCOs must be selected by elected Councillors, thereby ensuring some measure of democratic mandate.

[16] New section 35I. This section provides for the Minister of Local Government and Minister of Transport, rather than elected local politicians, to appoint initial directors of Auckland Transport, the CCO which will control transport-related powers and functions in Auckland. This undermines local democracy.

[17] We submit that the Directors of Auckland Transport must be selected by elected Councillors.

Transport, mana whenua board and CCOs, Clause 45

[18] CPAG supports the objective of an "affordable, integrated, safe, responsive, and sustainable transport system" for Auckland, however we have some concerns as to whether this will be achieved under this Bill.

[19] The Bill defines "transport system" very broadly, so broadly in fact that it covers local potholes, bus shelters, rail stations and everything else in between.

- [20] We submit that local transport issues such as footpaths, local roads, local public transport facilities and local traffic improvements must be dealt with by the local boards as part of their legislated duties. There is no reason for these minor local issues to be dealt with by Auckland Transport (AT). Furthermore, experience suggests that local issues will get buried within a large agency. As well, the fact of AT being a CCO means that, as set out in the Bill, local people will have no recourse to decisions made by TA. This undermines local decision-making.
- [21] The Royal Commission recommended that local roading issues be left with local councils. We submit that the Bill adopt this recommendation.
- [22] New section 45. This provides that Auckland Transport CCO can have between 6 and 8 voting directors, but only 2 of them can be elected members of the Auckland Council. This effectively abrogates control of transport-related powers and functions within the region from elected councillors to unelected appointees. This undermines local democracy, and leaves one of the key rationales for Auckland's restructuring in the hands of largely unaccountable officials.
- [23] We submit that at least 6 of the 8 AT directors must be elected Councillors.
- [24] New Part 7. This establishes and functions of a board promoting issues of significance for mana whenua. The Minister of Maori Affairs approves a selection body who then select the members of the board. This is an undemocratic process for a local body advisory board.
- [25] We submit there must be elected and mana whenua appointed voting representatives on the Auckland Council. The Royal Commission recommended dedicated Maori seats on the Council, and we support this recommendation.
- [26] As the Bill is drafted the board is purely advisory and has no real power. This is unacceptable in Auckland, a city with a history of Maori habitation that pre-dates European settlement, and a significant population of urban Maori.
- [27] Turning to the CCOs, we submit there must be provision for public attendance and input into CCO meetings. There also needs to be provision for public submissions into CCO business, for example in the same way as councils presently take submissions on plans and strategies. In a Bill purporting to strengthen Auckland's democracy, we presume this is an oversight.
- [28] New section 76. This provision prohibits councillors from being directors of CCOs. This effectively removes any possibility of elected representatives exercising any democratic control over CCOs. This is undemocratic.
- [29] We submit that the majority of board members of a CCO must be elected councillors.

Clause 49

- [30] This clause repeals the Local Government (Auckland) Amendment Act 2004, including section 28 of that Act, which currently imposes restrictions on any

proposed sale by Auckland Regional Holdings of its shareholding in the Ports of Auckland. This opens the Ports of Auckland up for privatisation.

[31] We strongly submit in opposition to this clause. We submit instead that the Bill specifically retain section 28 of the Local Government (Auckland) Amendment Act 2004.

Clause 59

[32] This clause will prohibit any reorganisation proposal for the Auckland Council being made to the Local Government Commission until after the 2013 election. This will effectively prevent Franklin, Papakura and Northern Rodney from forming their own councils until 2015, even if the majority of residents in those areas wish to (as in fact the residents of Rodney have already demonstrated they do). This clause denies residents the right to initiate a reorganisation proposal that residents of any other local authority have under the Local Government Act 2002.

[33] We submit in opposition to this clause.

Clause 62

[34] This clause provides a moratorium on the sale of strategic assets only until 1 July 2012. This means that privatisation plans can be proposed and completed by the Auckland Council before voters get a chance to have a say on them at the 2013 local elections. In effect, ratepayers will not get a chance to vote on whether or not their assets are privatised. The 2010 election will not be fought on asset sales, and by 2013 it may be too late.

[35] We submit in opposition to this clause. Instead, specific provisions must be made to protect council assets, in the manner that section 28 of the Local Government (Auckland) Amendment Act protects the Ports of Auckland.

Clause 67

[36] This clause provides that the information provisions of the Local Government Official Information and Meetings Act 1987 apply to Watercare Services Limited only until 30 June 2012. This means that after that date the decision-making about water services and pricing will be able to be made in secret. This removes it from any democratic accountability and undermines local democracy. Watercare is a publicly owned monopoly, and must be accountable, with open and transparent decision-making.

[37] We submit in opposition to this clause.

Clause 71

[38] This clause provides that Watercare Services Limited is not subject to Auckland Council policies or directions in setting prices for water after 30 June 2015. This

removes water pricing from democratic oversight. Watercare must be held to democratic standards of accountability and transparent decision-making.

[39] We submit in opposition to this clause.

Clause 72

[40] This clause provides that no member of the Auckland Council can be a director of Watercare Services Limited. This effectively removes Watercare from democratic oversight.

[41] We strongly submit in opposition to this clause.

Clause 76

[42] This clause provides that elected councillors be prohibited from appointment as directors of substantive CCOs.

[43] For the reasons set out above we submit in opposition to this clause.

Schedule 3, Part 1

[44] New section 111(1)(l)(1A) of the Local Electoral Act 2001. This provision changes the spending limits for mayoral candidates. At present candidates have a spending cap of \$70,000, a significant sum of money but manageable for most candidates. The proposed formula is \$100,000 for cities with a population greater than 249,999 and less than 1,000,000 plus 50c for each elector. This spending is available in the last three months of a campaign – spending prior to this is not included.

[45] Local government has traditionally been about just that – local issues, with office generally being attainable by local people who in many cases have few resources with which to campaign. This provision, which potentially raises the mayoral spending limit to \$580,000, tips the playing field away from all but the very wealthy. We submit that local government needs to maintain the local, and encourage as many people as possible to participate. We therefore submit in opposition to this clause, and submit instead that a cap of \$100,000 in the last three months be put in.

Schedule 3, Part 1

[46] Section 77 Local Government Amendment Act 1992. Section 77(1) states that: “The Auckland Regional Council shall continue to hold, for the purposes of a scenic park and as a memorial to commemorate the completion in the year 1940 of the first 100 years of settlement and progress in the Metropolitan District of Auckland, the land known as “the Auckland Centennial Memorial Park” and any other land acquired by the Council or its predecessors for the purposes of that park.” This change is deeply concerning as there is no clue as to what is envisaged for the park. If it is the Government’s intention to nationalise the park,

this should have been stated clearly to the public and stakeholders. Nationalising the parkland would take it beyond the accountability of local representatives, which goes against the stated intention of the Bill for community engagement.

[47] The Auckland Centennial Memorial Park was created by the people of Auckland for the people of Auckland. It has subsequently been developed with ratepayer monies, and many gifts of land have been incorporated into the park.

[48] Aucklanders feel very strongly about their regional parks. With Auckland's sprawl being largely unregulated, people also consistently submit to councils that they want more parks and recreation land for themselves and their children. The inherent threat contained in the repeal of section 77 goes against all of this. It also goes against any attempt to create a child-friendly city where children can be secure in the knowledge that the parks they enjoy today will be there for their children tomorrow.

[49] We submit in opposition to this clause. We submit that instead of repealing section 77 the words "Auckland Regional Council" be omitted and the words "Auckland Council" be substituted.

Conclusion

[50] Auckland's local government restructuring presents Parliament with an opportunity to make Auckland a child-friendly city. This would necessitate handing democracy back to local people, and setting up structures that would enable communities to have a greater voice. Sadly, the Bill as it presently stands has missed this opportunity. Instead, we have power being centralised to unelected and unaccountable officials; we see the regions assets being set up for privatisation, a process that has not served the community well to date; we observe with a great deal of reservation the increase in funding limits that is likely to rule ordinary citizens out of contention for local government office; and we are faced with the possibility that the region's most loved regional park will be nationalised, or worse, sold off.

[51] The process of Auckland's local government restructuring has been rushed, and little thought appears to have been given to the protection of its children and vulnerable citizens. We urge the Committee to view Auckland not as a corner shop, but as a city with a wide range of communities, people, talents and aspirations whose needs must be met if this legislation is to endure.