Local Government Act 2002 Amendment Act 2014

Local boards outside Auckland

Question and answers

July 2014

Q: The legislation was only amended in 2012, why have further changes been made?

A: The 2012 reforms to the Local Government Act 2002 provided for a new process for reorganising local government. Some submissions on that Bill asked for a local boards model – similar to that in Auckland – to be included in the options available to the Local Government Commission as part of this process.

The Act was amended to allow for the Auckland local boards model to be copied, but only where an urban unitary authority with a population of more than 400,000 is proposed in a reorganisation. This reflected that the model was specifically designed for Auckland, and further work was required to consider its suitability for other parts of New Zealand.

That work was completed in 2013, and the latest Act enables local boards to be made available more widely as part of local government reorganisations.

The 2014 Act as a whole seeks to facilitate improvements to the efficiency of local government arrangements in a broad range of circumstances. Changes to institutional arrangements through reorganisation are one way of doing this, and provision for local boards will give the Local Government Commission greater flexibility to enable it to tailor proposals to the needs of different areas. A reorganisation involving local boards can provide for effective democratic governance at a community level, while achieving the benefits associated with larger organisations.

Q: What is provided for in the 2014 Act?

A: The 2014 Act puts a number of new provisions into the Local Government Act 2002, including:

- a constitutional framework for local boards, including processes and requirements for the election of members, planning and accountability, and general governance matters;

- provisions that enable the Local Government Commission to:
  
  o consider the option of local boards during any proposed reorganisation, and establish them as part of new unitary authorities; and

  o consider establishing local boards in existing unitary authorities, and deal with these proposals through a simpler reorganisation process.

The local boards framework set out in this Act has many of the same features as in Auckland, but the Commission will be able to tailor some of the details to suit each reorganisation.
Q: Is the Local Government Commission able to include local boards in the reorganisations currently being dealt with?

A: The Commission, if it chooses, could reissue its current draft proposals using local boards.

Q: What is a unitary authority?

A: A unitary authority is a territorial authority that also has the powers and responsibilities of a regional council. There are currently five unitary authorities in New Zealand – Gisborne District Council (established in 1989), Nelson City Council, Marlborough District Council and Tasman District Council (all 1992), and Auckland Council (2010).

Q: What is a local board and what does it do?

A: Under this model, governance of a unitary authority is split between local boards and the council’s governing body, with each tier having different, but complementary, responsibilities that are determined by criteria in legislation. This is sometimes referred to as a ‘two-tier’ or ‘dual’ governance model.

The governing body’s responsibilities include:

- corporate governance (rating, borrowing, ownership of assets, employment of staff, etc.);
- regulatory functions; and
- regional aspects of public services and facilities.

Local board responsibilities include:

- local aspects of public services and facilities;
- delegated functions; and
- advocacy and input into regional decision making.

Q: What is the process for setting up local boards?

A: The Local Government Act 2002 now provides a framework for the membership and operation of local boards. This framework can be applied as part of the local government reorganisation process, which is dealt with by the Local Government Commission. Local boards will be able to be established as part of a reorganisation creating a unitary authority, or by a special reorganisation process in existing unitary authorities.

The Commission establishes and publishes procedures in accordance with the legislation.

Q: Are local boards mandatory?

A: No. They are just a possible component of the unitary authority option that the Local Government Commission can consider.
Q: Are all councils able to have local boards?
A: No. Under the provisions in the Act, only unitary authorities will be able to have local boards.

Q: Are existing unitary authorities able to have local boards?
A: Yes, though applications still need to be considered by the Local Government Commission. The Act provides for a simpler reorganisation process for dealing with these applications.

Q: Are unitary authorities able to set up local boards themselves following a representation review?
A: No. However, it is possible that a representation review might identify where local boards could be beneficial, in which case an application could be made to the Local Government Commission.

Q: Will new local boards have the same features as the ones in Auckland?
A: The generic provisions for local boards in the Act include many of the same features as the model that applies in Auckland.

Some of the elements that are replicated include:

- use of the name 'local boards';
- elected membership;
- complementary roles, with governance split between local boards and the council’s governing body;
- statutory responsibility for decisions on non-regulatory functions (except transport infrastructure and operations and other matters where there is good reason for regional-level decisions);
- initial allocation of responsibilities under the statutory criteria as part of the establishment process, with subsequent changes by negotiation;
- ability to propose local bylaws; and
- boundary changes, abolition or amalgamation of local boards must be dealt with by the Local Government Commission using the reorganisation process in the Local Government Act 2002.

However, the framework for Auckland was designed specifically for that local context. Some of its features involve compliance costs that might not be justified for smaller populations, and the membership arrangements and universal coverage might not be appropriate for smaller or largely rural unitary authorities.
To reflect this, the generic local boards provisions in the Act include:

- flexibility for the Local Government Commission to constitute local boards for parts of a district only;
- options of directly elected or internally selected leadership of local boards (determined through the reorganisation process);
- the possibility of ward councillor membership of local boards (determined through the reorganisation process); and
- greater flexibility about planning, funding and accountability processes.

Q: How do local boards differ from community boards?

A: Local boards have an ‘equal but different’ status within a two-tier governance model, meaning their responsibilities complement those of the governing body. Many of these responsibilities are set out in law, and cannot be changed or taken away by the council. Local boards also have a statutory independence and permanence as they cannot be modified or abolished except through a reorganisation process.

In contrast, community boards can be established, modified, or abolished by their parent council as part of a representation review (subject to appeals to the Local Government Commission). Their responsibilities are not guaranteed, and depend on delegations from the council.

Q: Is it intended that local boards will replace community boards?

A: No, local boards will be an additional option that can be implemented by the Local Government Commission.

Q: Is it possible for a council to have both local boards and community boards?

A: This would be up to the Local Government Commission to consider during specific reorganisations. However, the provisions in the Act are sufficiently flexible to enable there to be local boards in some parts of a district and community boards in other parts.