

Local Government Act 2002

The starting point for considering how local government should function in the Auckland region is the purpose and principles of local government stated in the Local Government Act 2002 (the “Act”). Sections 10–14 of the Act are set out in full below. The Commission’s terms of reference exclude inquiry into these statutory provisions.

- Section 10 of the Act states that the purpose of local government is
 - a) to enable democratic local decision-making and action by, and on behalf of, communities; and
 - b) to promote the social, economic, environmental, and cultural well-being of communities, in the present and for the future.
- Section 11 of the Act says that the role of a local authority is to
 - (a) give effect, in relation to its district or region, to the purpose of local government stated in section 10; and
 - (b) perform the duties, and exercise the rights, conferred on it by or under this Act and any other enactment.

The Act does not set out the specific functions or activities of local and regional councils, but, as shown in section 11, provides them with a power of general competence to pursue wellbeing for their communities in ways they see fit. It is clear from section 10 of the Act that the responsibilities of local government can go well beyond the provision of infrastructure and related service delivery and encompass everything from pensioner housing to education to economic development – anything that concerns the social and economic health of communities.

The structure of local government as provided for in the Act applies across New Zealand and is not specifically tailored for Auckland. Under its terms of reference the Commission may propose structures different from those that are provided for in the Act – as long as the arrangements are consistent with the purpose and principles of the Act. This means the Commission is not limited by the current structures of regional councils, city and district councils, and community boards, and is able to propose new structures.

Sections 10–14 of the Local Government Act 2002

The purpose and principles of local government are set out in sections 10–14 of the Local Government Act 2002.

Subpart 1—Purpose of local government

10 Purpose of local government

The purpose of local government is—

- (a) to enable democratic local decision-making and action by, and on behalf of, communities; and
- (b) to promote the social, economic, environmental, and cultural well-being of communities, in the present and for the future.

Subpart 2—Role of local authorities and related matters

11 Role of local authority

The role of a local authority is to—

- (a) give effect, in relation to its district or region, to the purpose of local government stated in section 10; and
- (b) perform the duties, and exercise the rights, conferred on it by or under this Act and any other enactment.

12 Status and powers

- (1) A local authority is a body corporate with perpetual succession.
- (2) For the purposes of performing its role, a local authority has—
 - (a) full capacity to carry on or undertake any activity or business, do any act, or enter into any transaction; and
 - (b) for the purposes of paragraph (a), full rights, powers, and privileges.
- (3) Subsection (2) is subject to this Act, any other enactment, and the general law.
- (4) A territorial authority must exercise its powers under this section wholly or principally for the benefit of its district.
- (5) A regional council must exercise its powers under this section wholly or principally for the benefit of all or a significant part of its region, and not for the benefit of a single district.
- (6) Subsections (4) and (5) do not—
 - (a) prevent 2 or more local authorities engaging in a joint undertaking, a joint activity, or a cooperative activity; or
 - (b) prevent a transfer of responsibility from one local authority to another in accordance with this Act; or
 - (c) restrict the activities of a council-controlled organisation; or
 - (d) prevent a local authority from making a donation (whether of money, resources, or otherwise) to another local authority or to a person or organisation outside its district or region or outside New Zealand—
 - (i) if the local authority considers, on reasonable grounds, that the donation will benefit its district or region, or the communities within its district or region; or
 - (ii) if the local authority considers, on reasonable grounds, that a benefit will be conferred on the local government sector as a whole; or
 - (iii) for emergency relief; or
 - (e) prevent a local authority from making a donation (whether of money, resources, or otherwise) to a local government body outside New Zealand to enable it to share its experience and expertise with that body.

13 Performance of functions under other enactments

Sections 10 and 12(2) apply to a local authority performing a function under another enactment to the extent that the application of those provisions is not inconsistent with the other enactment.

14 Principles relating to local authorities

- (1) In performing its role, a local authority must act in accordance with the following principles:
 - (a) a local authority should—

- (i) conduct its business in an open, transparent, and democratically accountable manner; and
- (ii) give effect to its identified priorities and desired outcomes in an efficient and effective manner:

(b) a local authority should make itself aware of, and should have regard to, the views of all of its communities; and

(c) when making a decision, a local authority should take account of—

- (i) the diversity of the community, and the community's interests, within its district or region; and
- (ii) the interests of future as well as current communities; and
- (iii) the likely impact of any decision on each aspect of well-being referred to in section 10:

(d) a local authority should provide opportunities for Maori to contribute to its decision-making processes:

(e) a local authority should collaborate and co-operate with other local authorities and bodies as it considers appropriate to promote or achieve its priorities and desired outcomes, and make efficient use of resources; and

(f) a local authority should undertake any commercial transactions in accordance with sound business practices; and

(g) a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region; and

(h) in taking a sustainable development approach, a local authority should take into account—

- (i) the social, economic, and cultural well-being of people and communities; and
- (ii) the need to maintain and enhance the quality of the environment; and
- (iii) the reasonably foreseeable needs of future generations.

(2) If any of these principles, or any aspects of well-being referred to in section 10, are in conflict in any particular case, the local authority should resolve the conflict in accordance with the principle in subsection (1)(a)(i).