

July 2009

## Social development is local government's core business

Improved social well-being outcomes are critical for Auckland to become a leading city, The Royal Commission on Auckland Governance concluded: *“Central and local government’s annual social well-being spend is in the vicinity of \$12 billion in the Auckland region. It is critical that these resources are applied effectively, to achieve the best outcomes. Accordingly, Auckland needs a governance structure for social well-being that enables local and central government to share decision-making and accountability for improving the effectiveness of resources spent, and addressing the critical social issues in Auckland.”*

The Commission recommended a Social Issues Board to decide on the overall strategy to achieve social wellbeing, on who would take what action, and how progress could be measured. This recommendation was rejected by the Government in favour of a Social Issues Forum which, on the face of it, has no power to make decisions or hold organisations to account. This is nonetheless a step in the right direction. It’s not yet clear how central government agencies (who have most of the money and research capability) get involved, how District Health Boards are to engage, how current place-based good practice will continue or how the people of Auckland will get a say.

One danger is that the new structure could sideline social issues. It could turn council activity away from poor and marginalised people and make a small minority prosper. Auckland could develop a thriving waterfront but a very unpleasant—even dangerous—backyard.

The current Local Government Act (2002) gives local authorities a clear mandate to promote the social, economic, environmental and cultural wellbeing of their communities. This is challenged in a Cabinet paper (April 2009) ‘Improving local government transparency, accountability and fiscal management’ which has generated national debate about the core business of local government. In this paper, the Minister of Local Government, Hon. Rodney Hide states: *“I would expect there to be general acceptance that (core services) includes transport services (roading, footpaths, and public transport); water services (water supply, sewage treatment, stormwater and flood protection) and public health and safety services (refuse collection and regulation of nuisances).”* This has become a debate well beyond the Auckland region.

At the same time, the Government’s response to the Royal Commission on Auckland Governance has led to a series of Bills aimed at restructuring local government in the region. The most important Bill in this context—the third—will set out the powers and Council and local boards, and will be introduced into the House in October and be reported back in March/April next year.

The changes set in motion in Auckland offer great potential to connect central government policies with local realities to deal with some of the core social issues in the region. When local authorities’ powers to regulate land use, make provision for affordable housing, determine public transport, provide and place facilities, such as libraries and swimming pools, and engage diverse communities are combined with central government’s powers to decide on the distribution of social services such as health, education, police and child and family support services, a powerful engine for change can be built.

It remains to be seen whether this potential will be realised.

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# Parliament

This has been a quieter month in Parliament. The House adjourned on 2 July and does not sit again until 21 July. This is not unusual—for several years recesses try to coincide with school holiday periods to allow MPs with families to spend some time together. Select committees have continued to meet however, with none so busy as the Auckland Governance Legislation committee, preparing to consider almost 2,500 submissions on the Local Government (Auckland Council) Bill.

## Announced

### Criminal Procedure Review

In 2007, the Criminal Procedure (Simplification) Project was established to review and reform our criminal procedures. A joint project between the Ministry of Justice and the Law Commission, the Project was in particular to address delays and inefficiencies in pre-trial procedures like, for example, repeated adjournments, late guilty pleas, and unacceptable waiting times for District and High Court trials. Government has just released details of its proposed reforms:

- requiring parties to discuss cases and attempt to resolve them;
- requiring the defence to identify issues in dispute so the court can focus on those issues at trial; and
- removing the prosecution's ability to elect a jury trial for a case that could go to summary trial.

Consultation papers on these and other issues have already been released to relevant groups and stakeholders, but are publicly available at: [www.justice.govt.nz](http://www.justice.govt.nz) It is hoped that a draft Bill will be available for consultation by the end of the year, to come into effect in 2010.

### Subcommittee established to consider Maori representation

A subcommittee of the Auckland Governance Legislation committee (the special select committee set up to hear submissions on the legislation needed to establish the new local government structure for Auckland) has been formed to hear submissions on Maori seats on the new council.

The Royal Commission report on Auckland Governance recommended a 23-member council, including three Maori seats—two to be elected by voters on the Maori roll and one to be appointed by iwi. The Government didn't accept this recommendation and instead opted for a 20-seat council with no Maori seats. At the time, the Prime Minister said that he thought an advisory board to the new council was a better way of engaging with Maori.

To say this has been contentious would be an understatement. At a recent hikoī, it is estimated that over 6,000 marched in support of Maori seats on the new Auckland council. The subcommittee, thought to be the first of its kind, has attended marae in Auckland to hear submissions on this issue.

This week the Human Rights Commission added its voice to the call for separate Maori representation on the new council. The Commission appeared before the Auckland Governance Legislation committee and recommended that the Bill should provide for Maori seats as “a Treaty of Waitangi obligation and to reflect mana whenua representation”.

### “Bond Bank” for local body projects

The Government has announced it is considering establishing a “Bond Bank” in New Zealand. The Bank would help local

councils finance, over the next decade, up to \$30 billion of planned infrastructure work, including major sewage, water and roading projects. Such banks are common overseas, and a study will look at whether combining local councils' borrowing needs would lead to lower interest rates and transaction costs here. A joint Government and Local Government New Zealand steering group will consider a proposal next month.

## Introduced

### Search and Surveillance Bill

Last year the then Labour Government introduced the Search and Surveillance Powers Bill—largely in response to a Law Commission report in 2007 strongly recommending legislation to standardise search and surveillance powers. Labour's Bill was not passed before the election and the Government has now introduced its own Bill—the Search and Surveillance Bill—which supersedes the previous Bill. National's Bill widens the range of offences for which communications can be intercepted, allows electronic applications for search warrants, allows surveillance to be carried out without a warrant in urgent circumstances, and sets out reporting requirements for agencies. The Bill was introduced to the House on 2 July but at the time of writing has yet to be referred to select committee.

### Local Government (Protection of Auckland Assets) Amendment Bill

Adding to the rich tapestry that is the Auckland Supercity debate, Labour MP Phil Twyford's Members Bill was drawn from the ballot and introduced to the House on 2 July. Twyford is Labour's Auckland Issues spokesperson and his Bill would require the new Auckland council to hold a referendum before the sale or privatisation of local authority assets. The Bill would not apply to sales that are part of the Council's normal day-to-day property management, but would apply to significant assets such as parks, swimming pools, libraries and public housing.

## Submissions requested

### Review of Copyright Act

The Government has released a discussion document outlining proposals to review section 92A of the Copyright Act. The discussion document is the latest attempt to deal with repeat internet copyright infringements and proposes a three-stage process which could see internet users who repeatedly breach copyright fined or have their internet accounts terminated. The discussion document is targeted at internet users, internet service providers and copyright owners, but the public also have an opportunity to comment. The Section 92A Review Policy Proposal Document is at: [www.med.govt.nz](http://www.med.govt.nz) Submissions close 5.00pm 7 August and can be sent to [copyrightact@med.govt.nz](mailto:copyrightact@med.govt.nz).

## Reported back

### Domestic Violence (Enhancing Safety) Bill

The Justice and Electoral committee have reported back on this Bill and recommend that it be passed with some amendments. A key feature of the Bill is “on the spot” orders—orders that can be made by Police where there is insufficient evidence to arrest a person, but the Police have reasonable grounds to

# Legislation Update

Legislation	Stage and Progress	Impact
Children, Young Persons & Their Families Amendment Bill (No.6)	Labour Government Bill. Reported back from select committee. Reinstated.	Increases the age of young people covered by the Bill to 17 years.
Children, Young Persons & Their Families (Youth Court Jurisdiction & Orders) Amendment Bill	Government Bill. Submissions closed. Report due 18 August.	Introduces measures aimed at reducing violent and repeat offending by children and young people.
Corrections (Contract Management of Prisons) Amendment Bill	Government Bill. Report due 26 September.	Allows for competitive tendering for the management of prisons.
Criminal Investigations (Bodily Samples) Amendment Bill	Government Bill. Submissions closed. Report due 12 August.	Gives Police wide powers to collect DNA samples from people before they are charged or convicted.
Disputes Tribunal Amendment Bill	Government Bill. Submissions closed. Reported back.	Expands jurisdiction of Disputes Tribunal.
Domestic Violence (Enhancing Safety) Bill	Government Bill. Submissions closed. Report due 29 June (see page 4).	Introduces “on the spot” orders issued by Police to protect victims of domestic violence.
Education Amendment Bill	Government Bill. Report due 28 August.	Bill to help identify unregistered teachers and reduce compliance costs of Police vetting.
Gambling Amendment Bill (No.2)	Labour Government Bill. Reported back. Second Reading 12 May.	Contains technical amendments to allow original Act (2003) to operate as intended.
Gangs and Organised Crime Bill	Government Bill. Submissions closed. Report due 10 August.	Increased penalties for participation in organised criminal groups.
Immigration Bill	Labour Government Bill. Reinstated.	Rewrites and consolidates immigration legislation, introduces new visas.
Judicial Matters Bill	Labour Government Bill. Reported back.	Establishes Office of Judicial Conduct Commissioner to receive complaints about conduct of Judges.
Land Transport Amendment Bill (No.4)	Labour Government Bill. Reinstated. Second reading 16 June.	Increases powers of police to deal with drug-impaired drivers.
Legal Services Amendment Bill	Labour Government Bill. Picked up by National. Select Committee report due 2 October.	Simplifies legal aid process for victims of crime at Parole Board hearings and coronial inquests.
Local Government (Auckland Council) Bill	Submissions closed 26 June.	One of three Bills provide for the proposed new local government structure for Auckland.
Patents Bill	Government Bill. Submissions to Commerce committee close 2 July.	Updates New Zealand’s patents regime (see page 2).
Public Health Bill	Labour Government Bill. Reported back from select committee. Reinstated.	Revises public health legislation including border protection and quarantine provisions.
Residential Tenancies Amendment Bill	Government Bill. Submissions close 3 July.	Reflects significant changes in the rental market since the 1986 Act.
Sale and Supply of Liquor and Liquor Enforcement Bill	Labour Government Bill. Reinstated. Submissions closed. Report due 10 September.	Gives communities greater say in liquor licensing decisions, makes it an offence for adults to supply alcohol to minors without parental consent.
Sale of Liquor (Objections to Applications) Amendment Bill	Member’s Bill (George Hawkins). Submissions closed. Reinstated.	Restricts the number of liquor outlets and makes wider provisions for objections to licenses.
Search and Surveillance Bill	Government Bill (see page 2).	Widens ranges of offences for which communications can be intercepted, allows electronic applications for search warrants.
Sentencing (Offender Levy) Amendment Bill	Government Bill. Submissions closed. Report due 12 August.	Imposes a \$50 levy on offenders at a time of sentencing.
Sentencing and Parole Reform Bill	Government Bill. Submissions closed. Report due 18 August.	Introduces tougher parole laws. Bill also introduces “three strikes” policy for serious offences.
Taxation (International Taxation, Life Insurance and Remedial Matters) Bill	Labour Government Bill. Reinstated. Submissions closed. Report due 30 June (see page 4).	Introduces business tax reforms and payroll giving system for charitable donations.
Waka Umanga (Maori Corporations) Bill	Labour Government Bill. Reported back from select committee. Reinstated.	Provides for the establishment of new legal entities by tribal groups or Maori associations.

believe a protection order is necessary to ensure the safety of another. The select committee recommended these orders be renamed Police Safety Orders and that the words “immediate safety” be removed, allowing Police to consider the safety of a person over the next hours or days and not just at the time the Police are called to a domestic violence incident. The committee also recommended that the section requiring persons against whom orders are made to surrender firearms and weapons be strengthened to require that firearms licences also be surrendered.

## Taxation (International Taxation, Life Insurance and Remedial Matters) Bill

Introduced by the previous Government, this large Bill introduced a number of business tax reforms, but also introduced a voluntary payroll giving scheme and clarified the tax treatment of reimbursement and honoraria payments to volunteers. The Finance and Expenditure committee recommended the Bill be passed with some amendments including

- Giving employees the right to claim compensation from their employer, if the employer fails to transfer their payroll donations;
- Allowing combined payments of reimbursement and honoraria be paid to volunteers without the whole payment being subject to withholding tax (reimbursement payments are exempt income).

The report can be read at [www.parliament.nz](http://www.parliament.nz)

## Review of Foreshore and Seabed Act

The panel appointed to review the Foreshore and Seabed Act has reported back to the Government. (The review was part of National’s confidence and supply agreement with the Maori Party.) The panel recommended the Act be repealed and that “the process of balancing Maori property rights in the foreshore and seabed with public rights and expectations be started again.” Of four options put forward, the panel recommended a “mixed option”, including recognition of Maori customary title to all foreshore and seabed, specific access and usage rights for iwi and protecting public right to access.

As part of the review, the panel held 21 hui, and received 580 submissions—over 80% of which were opposed to the current law. Submissions can be read at [www.justice.govt.nz](http://www.justice.govt.nz)

National have yet to say whether the Act will be repealed, but has always maintained that public right of access to the beach for all New Zealanders was “an absolute bottom line”. Attorney-General, Chris Finlayson, has begun talks with other parties to try and reach an all-party agreement on this issue.

## News

### Employment Court ruling

A recent Employment Court decision found that disability support workers on “sleep-over” shifts are working, and should be paid at least the adult minimum wage for every hour they are required to be at work. The case is one of two brought by the Service and Food Workers Union and the Public Service Association and they have welcomed the decision.

The worker at the centre of the case does sleep-over shifts at an IHC community house. His shift is 10:00p.m.–7:00a.m. for which he is paid \$34.00 (or \$3.77 per hour). IHC argued that support workers are not working while they are asleep, but the Employment Court disagreed. The ruling is in line with decisions on similar cases overseas.

Organisations affected by this decision have called on the Government to ensure they are funded to pay disability support workers the adult minimum wage for every hour they are at work, because currently they are not.

## New Minister for Disability Issues

Hon. Tariana Turia has been appointed Minister for Disability Issues, taking over this role from Paula Bennett. Pansy Wong will be the Associate Minister.

## Vulnerability reports

The New Zealand Council for Christian Social Services (NZCCSS) have released the first of a series of reports on economic and social hardship in New Zealand. The Vulnerability Reports will be based on information and data collected from government agencies, and on feedback from community organisations. NZCCSS hope to use the reports to highlight the effects of the current recession on New Zealand families, and to also look at some of the long-term inequities contributing to poverty and social justice in this country. The reports can be read or downloaded from [www.justiceandcompassion.org.nz](http://www.justiceandcompassion.org.nz)

The reports may be timely—recent figures show that the number of New Zealanders receiving a benefit has increased to 302,000 and that the number of people on the unemployment benefit is increasing by 1,000 a week.

## Legal opinion on section 59

The Human Rights Commission has prepared a legal opinion clarifying the rights of parents under section 59 of the Crimes Act. The opinion was prepared by the Commission to try and inform debate on the upcoming referendum and to remove fears held by some parents that they could be prosecuted for “trivial smacks” of their children.

The legal opinion says that while children cannot be hit for the purposes of correction, parents can use reasonable force for a variety of purposes including, for example, to stop a child being hurt or hurting someone else or to prevent a child from committing a criminal offence. Further, the opinion confirms the Police have an explicit discretion under the Act about whether to prosecute if they receive a complaint—and can, for example, decide not to prosecute if the offence is so minor there is no public interest in proceeding.

## New Zealand Federation of Voluntary Welfare Organisations

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