

Local Government (Auckland Council) Amendment Bill (No 2)

Government Bill

Explanatory note

General policy statement

This Bill amends the Local Government (Auckland Council) Act 2009 (the **Act**) to enable local boards established under the Act to delegate responsibilities, duties, or powers conferred or allocated to them under the Act.

Currently, local boards are able to delegate many of their responsibilities, duties, or powers to a committee or a member of the local board, or to an officer of the Auckland Council, under the Local Government (Auckland Transitional Provisions) Delegations, Development Contributions, and Trade Wastes Regulations 2010 (the **transitional regulations**). The transitional regulations expire on 31 October 2013.

Providing for delegation by local boards through the transitional regulations was intended as an interim solution.

The Auckland Council has indicated that the efficient and effective operation of local boards requires that local boards continue to be able to delegate responsibilities, duties, and powers as they currently are able to do under the transitional regulations. The Bill therefore replicates the effect of the relevant provisions in the transitional regulations.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. This Bill, when enacted, will come into force on 1 November 2013.

Clause 3 states that the Bill amends the Local Government (Auckland Council) Act 2009 (the **Act**).

Clause 4 amends section 31 of the Act to remove those provisions of the section that relate to the delegation of responsibilities, duties, and powers by local boards. As amended, the focus of section 31 is principally on matters relating to delegations to local boards from the governing body.

Clause 5 inserts *new section 31A* into the Act, which provides for delegations by local boards. *New section 31A* covers the matters to be removed by clause 4 and those relating to local board delegations in the Local Government (Auckland Transitional Provisions) Delegations, Development Contributions, and Trade Wastes Regulations 2010.

Hon Chris Tremain

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Contents

	Page
1 Title	1
2 Commencement	1
3 Principal Act	1
4 Section 31 amended (Delegations)	2
5 New section 31A inserted (Delegations by local boards)	2
31A Delegations by local boards	2

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Local Government (Auckland Council) Amendment Act **2013**.
- 2 Commencement** 5
This Act comes into force on 1 November 2013.
- 3 Principal Act**
This Act amends the Local Government (Auckland Council) Act 2009 (the **principal Act**).

4 Section 31 amended (Delegations)

- (1) Replace the heading to section 31 with “**Delegations to local boards from governing body**”.
- (2) Replace section 31(4) to (7) with:
- “(4) A local board to which the governing body has delegated a responsibility, duty, or power may, without confirmation by the governing body, exercise or perform the responsibility, duty, or power in the same manner and with the same effect as the governing body could itself have exercised or performed it. 5
- “(5) No delegation under this section relieves the governing body of the liability or legal responsibility to perform or ensure the performance of any responsibility or duty.” 10

5 New section 31A inserted (Delegations by local boards)

After section 31, insert:

- “31A Delegations by local boards”** 15
- “(1) For the purposes of efficiency and effectiveness in the conduct of a local board’s business, a local board may delegate to a committee, subcommittee, or member of the local board, or an officer of the Auckland Council, any of its responsibilities, duties, and powers, except— 20
- “(a) the duty to identify and communicate the interests and preferences of the people in its local board area in relation to the content of the strategies, policies, plans, and bylaws of the Auckland Council:
- “(b) the power to propose a bylaw or an amendment to a bylaw: 25
- “(c) the power to confirm a bylaw or modify a proposed bylaw:
- “(d) the power to propose the revocation of a bylaw:
- “(e) the duty to adopt the local board plan for its area: 30
- “(f) the duty to agree the local board agreement for its area with the governing body of the Auckland Council:
- “(g) the power to apply to the Local Government Commission for a binding determination in respect of a dispute between itself and the governing body: 35
- “(h) a responsibility, duty, or power that this Act or any other Act expressly provides may not be delegated.

- “(2) However, nothing in **subsection (1)** restricts the power of a local board to delegate to a committee, subcommittee, or member of the local board, or an officer of the Auckland Council, the power to do anything precedent to the performance or exercise by the local board of a responsibility, duty or power specified in that subsection. 5
- “(3) **Subsection (1)** applies to any responsibilities, duties, or powers delegated to the local board by the governing body subject to any conditions, limitations, or prohibitions imposed by the governing body when making the original delegation. 10
- “(4) A committee, subcommittee, or person to which or to whom a local board has delegated a responsibility, duty, or power, may,—
- “(a) without confirmation by the local board, exercise or perform the responsibility, duty, or power in the same manner and with the same effect as the local board could itself have exercised or performed it: 15
 - “(b) delegate the responsibility, duty, or power to a subcommittee or person, subject to any conditions, limitations, or prohibitions imposed by the local board when making the original delegation. 20
- “(5) No delegation relieves the local board of the liability or legal responsibility to perform or ensure the performance of any responsibility or duty.”
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