

AUCKLAND WAR MEMORIAL MUSEUM BILL

AS REPORTED FROM THE INTERNAL AFFAIRS AND LOCAL
GOVERNMENT COMMITTEE

COMMENTARY

Recommendation

The Internal Affairs and Local Government Committee has examined the Auckland War Memorial Museum Bill and recommends that it be passed with the amendments shown in the bill.

The Auckland War Memorial Museum Bill is a local bill. The committee has determined that the Standing Orders have been complied with and that the rights and prerogatives of the Crown are not affected by the provisions of the bill.

Conduct of the examination

The Auckland War Memorial Museum Bill, which was referred to the committee on 20 September 1995, provides for the maintenance, management, development, ownership, and funding of the Auckland War Memorial Museum and its contents. This is necessary to resolve present ownership and management issues, and also to facilitate what is seen as a much needed restoration and upgrading programme for the museum.

This commentary sets out the details of our consideration of the Auckland War Memorial Museum Bill and the major issues we addressed.

We spent 7 hours and 30 minutes hearing evidence and 4 hours 30 minutes considering the bill. We particularly wish to acknowledge the assistance and advice we received from the Department of Internal Affairs.

Auckland Institute and Museum

There are three parts to the constitutional and administrative structure of the museum. First there is the Auckland Institute and Museum which is an unincorporated association ("the Institute"), originally formed in 1867 with the object of the "promotion of art, science and literature by means of a museum and library, lectures and meetings of members". In 1994 Institute membership throughout the country stood at 1936. Members maintain the museum, promote

scholarship, and see themselves as guardians of the museum and its heritage. The second part is the Council of the Auckland Institute and Museum ("the Council"), which is a local authority with statutory provisions for local authority representation and a power to levy, and its third part consists of the Auckland Institute and Museum Trust Board ("the Trust Board"). Vested in the Trust Board are the assets of the Institute, namely the building itself and the collections.

Submissions

The degree of public interest in this bill was evident from the large number of submissions and supplementary submissions. In total 86 submissions and 22 supplementary submissions were received, well above the number normally received on a local bill. A significant number of these were from Institute members. Oral evidence was heard on 33 submissions. We heard two submissions in Wellington and on 12 March 1996 travelled to Auckland to hear 31 submissions. We were impressed with the sincerity and commitment of those who work to promote the ideals of the museum.

The Auckland War Memorial Museum Maintenance Act 1979

The Auckland War Memorial Museum Maintenance Act 1979 under which the museum currently operates is inadequate. This Act insufficiently separates the responsibilities of governance from those of management. It provides a confusing double-headed governance structure without adequate legal authority. It includes a 29-member Council that is excessively large and, at times, parochial in its activities, and a six member Trust Board, three of whom are appointed by the Council, and three of whom are elected by the Institute. The Act does not provide for Iwi representation and authority, or for proper public accountability and transparency of the Auckland War Memorial Museum's activities. The Finance Committee makes the decisions about the annual local government levy. However, at the meeting which sets the quantum of the levy, a majority of those present and voting must be territorial authority members. For many years budgets prepared by management and vigorously supported by the Institute have been heavily reduced by the territorial authority majority, forcing the deletion of essential expenditure. The resulting lack of funds has contributed to the deterioration of the building, displays and collections.

Importance of museum to Auckland

In preparation of the bill, consideration was given to the provisions of analogous museum-related statutes. However, the uniqueness of the Auckland War Memorial Museum is its status as a war memorial museum, its size, and in its constitutional history. It is visited by more than one million people a year and is a significant tourist attraction, more than any other attraction in New Zealand. The bill, therefore, has a number of provisions which are not directly comparable to legislation relating to other museums and cultural institutions in New Zealand. We considered whether to tailor the legislation with that applying to other museums, but, because of the distinctive role of the Auckland War Memorial Museum, and because it had been carefully consulted on and negotiated in Auckland interests, we resolved to keep the basic structure of the bill largely unchanged.

A major upgrade of the museum is planned, which will involve expenditure of approximately \$40 million. The new bill updates the constitution of the museum to enable the refurbishment programme to be undertaken.

Auckland War Memorial Museum Bill

Background

The bill is proposed to replace the Auckland War Memorial Museum Maintenance Act 1979 as the statutory basis for the ownership and governance of the museum. In particular, the bill is designed to resolve the constitutional and practical difficulties arising from the present split of ownership and operation of the museum between the Institute, the Council, and the Trust Board.

Objectives of the bill

The bill addresses present administrative and management issues. In particular it aims:

- To invest ownership of the museum and its contents in a reconstituted Auckland Museum Trust Board.
- To provide for a more manageable governing body of 10 members.
- To clarify the Auckland Museum Trust Board's role and responsibilities.
- To strike a balance between the interests of the Auckland Museum Institute and contributing local authorities relating to management and funding of the museum.
- To provide formal recognition of the role of the tangata whenua and of Maori values and guardianship of taonga.

Composition of board

Clause 4 of the bill provides that the 10-member Auckland Museum Trust Board is to consist of the following:

- Five representatives to be appointed by the seven contributing authorities.
- Four representatives to be appointed by the Auckland Museum Institute.
- One representative to be appointed by the Taumata-a-Iwi, a special Maori Committee to be established by clause 16 of the bill.

The new Auckland Museum Trust Board has been constituted to be insulated from direct local body political intervention whether from contributing local authorities or the Auckland Museum Institute. Its members are required to possess certain defined skills and experience, and are required under clause 11 (1) of the bill to act in the interests of the museum rather than of the body which appointed them.

Auckland Museum Institute

Clauses 11 and 12 of the bill provide for the continuation of the terms and conditions of the existing Institute which instead of being named the Auckland Institute and Museum is now called the Auckland Museum Institute and becomes a body corporate. The Institute's role as a learned society is continued, and it is given the power to appoint four of the ten Auckland Museum Board members. We gave careful and sympathetic attention to the points expressed by Institute members in their submissions, but we concluded that their views are out of step with the needs of a modern museum. We agreed with them that the role and responsibilities of the museum include the preservation of heritage and history, the encouragement of research and scholarship, and the provision of education and cultural recreation. But in fulfilling its roles and responsibilities the museum must act as a commercially responsible institution, and be able to maximise its opportunities to supplement public and charitable funding with appropriate self-earned revenues.

Public access to War Memorial Sanctuaries and entry charges

There were originally no provisions in the bill relating to charging, although the issue of charging for entry to museums is of particular public interest, and in the case of the Auckland War Memorial Museum one of special sensitivity, especially regarding entry to the war memorial sanctuaries. This is recognised in clause 25 of the bill which provides for free public access to the war memorial sanctuaries. We have recommended that the bill incorporate a definition of “War Memorial Sanctuaries” to clarify the areas this relates to.

We believe that the new Museum Trust Board will act responsibly with regard to the imposition of entry charges. In our view it is for the new Museum Trust Board to decide the circumstances in which the new Museum Trust Board would decide to impose an entrance charge. The increasing scope for improvement of exhibitions, both permanent and temporary, in line with worldwide museological trends and the need to provide “enhanced” experiences for visitors to the museum means that the new Museum Trust Board may decide to charge for entry in appropriate circumstances. In addition it is likely that at least part of the cost of the planned refurbishment of the museum will have to be recovered with entry charges. We have proposed, however, that the details of any proposed charges to be made for access to the museum or for any services to be provided by the museum shall be incorporated in the annual plan as this will ensure full public consultation.

Maori representation

The bill provides for the new Maori advisory committee, the Taumata-a-Iwi, to make recommendations to the Trust Board on the recruitment, training and employment of Maori staff and to provide cultural advice on the protection and use of the collections and Maori protocols. As introduced, the bill provides for the Taumata-a-Iwi to consist of five persons of whom one each shall be appointed by Ngati Whatua o Orakei Trust Board, Taiuni Maori Trust Board, Ngati Paoa Whanua Trust, Auckland District Maori Council, and Tamaki Makarau Maori Women’s Welfare League Regional Council.

We heard opposing Maori submissions concerning Maori membership of the Trust Board and the Taumata-a-Iwi Committee, the function and status of the Taumata-a-Iwi Committee, and an iwi’s control over its taonga. Some submissions from Maori also complained about lack of consultation. We were told that Sir Hugh Kawharu, of Ngati Whatua o Orakei, a Museum Council member representing the Institute was empowered by Council to consult with iwi having manawhenua status and to advise Council accordingly. However, we believe that the decisions regarding the composition of the Taumata-a-Iwi are better left to the new Auckland Museum Trust Board, and have recommended an amendment to the bill to that effect.

Annual plan and annual report

In our opinion, in line with procedures now followed in local government and by other similar bodies, the mechanism for transparency of action and clear lines of public accountability of the operations of the new Museum Trust Board is through the publication and public availability of the Board’s annual plan and annual report. The annual plan is the museum’s main policy and strategic document, and the annual report will report on the performance of the new Museum Trust Board assessed against the policies, objectives, activities, performance targets, indicative costs and sources of funds specified in the annual plan. In addition the Annual Report will include the new Museum Trust Board’s audited financial statements for the year. We have proposed amendments to the clause which applies to the annual plan and a new clause providing for the new Museum Trust Board to prepare and adopt, for each financial year, an annual

report. Our amendments more fully set out the annual reporting structure and procedure to be followed. Amendments to the annual plan provisions also include the following:

- The whole Museum Trust Board, rather than a committee of the Board, to adopt and approve the annual plan.
- The annual plan to include details of any proposed entry charges or charges for services.
- The annual plan to include the maximum remuneration levels of any member of the new Museum Trust Board and members of the Taumata-a-Iwi.
- The new Museum Trust Board to give every person making a submission on the annual plan a reasonable opportunity to appear and be heard in relation to that submission.

Amendments proposed by the committee

We have recommended amendments to most clauses of the bill. Our aim has been to simplify and clarify the bill. We have already referred to some of our most substantial amendments. Other substantial amendments include the following:

Clause 2 Interpretation

We have clarified and expanded the definition of the term “Museum”, and added a definition of the term “War Memorial Sanctuaries” to describe the areas of the First World War Sanctuary and the Second World War and Asian Wars Sanctuary.

Clause 4 Members of Board

Clause 4(3) of the introduced bill prohibits currently elected or appointed members or employees of a contributing authority, the Auckland Institute Council, the Taumata-a-Iwi, the Auckland Regional Council, the Auckland Regional Services Trust, or a member of the Museum staff from being appointed or remaining a member of the Auckland Museum Trust Board.

We agree that, because of competing interests, there may be some justification for precluding persons with direct involvement in agencies with funding or representation interests in the museum from becoming Auckland Museum Trust Board members. However, we consider that extension of the provision to include all members or employees of a contributing authority, the Auckland Regional Council and the Auckland Regional Services Trust is too stringent, and have recommended that it be amended to apply only to senior employees of the contributing authorities.

Conclusion

The drafting of the bill followed extensive discussions over a lengthy period, and included consultation with Institute members, the seven contributing local authorities, Maori interests, RSA (Returned Services Association), cultural and scientific interest groups, and the public generally. The bill outlines the processes for annual planning, budget preparation and levy setting, and introduces a defined process for arbitration of the amount of the levy should that be necessary. It provides protection of the museum collections and assets from arbitrary actions, ill-considered disposal and other similar actions. Although it has not proved possible to satisfy completely all the interested parties, the bill represents the result of major compromises by those involved in the negotiations.

KEY TO SYMBOLS USED IN REPRINTED BILL
AS REPORTED FROM A SELECT COMMITTEE

Struck Out (Unanimous)

Subject to this Act,

Text struck out unanimously

New (Unanimous)

Subject to this Act,

Text inserted unanimously

(Subject to this Act,)

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

Hon. D. A. M. Graham

AUCKLAND WAR MEMORIAL MUSEUM

[LOCAL]

ANALYSIS

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A BILL INTITULED

An Act to provide for the maintenance, management, development, ownership, and funding of the Auckland War Memorial Museum and its contents

5 BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title and commencement—(1) This Act may be cited as the Auckland War Memorial Museum Act 1995.

(2) This Act shall come into force on the *(1st day of September 1995)* day on which it receives the Royal assent.

10 **2. Interpretation**—In this Act, unless the context otherwise requires,—

“Annual plan” means the annual plan described in **section 24** of this Act:

“Auckland Museum Enterprises Limited” means the company of that name incorporated under the Companies Act 1955 as a wholly owned subsidiary of the Auckland Institute and Museum Trust Board: 5

“Auckland Museum Institute” and “Institute” means the *(membership body previously called the Auckland Institute and Museum)* learned society and membership body previously called the Auckland Institute and Museum and referred to in **section 14** of this Act: 10

“Board” means the Auckland Museum Trust Board referred to in **section 3** of this Act:

“Contributing authorities” means the *(local)* territorial authorities listed in the first column of the Schedule to this Act: 15

“Director” means the chief executive of the Museum appointed pursuant to **section 17** of this Act:

“Electoral College” and “Auckland Museum Electoral College” means the electoral college of territorial local authority representatives established by **section 13** of this Act: 20

“Establishment day” means the day 6 weeks after the *(commencement of this Act)* date on which this Act comes into force: 25

“Financial year” means the period commencing on the 1st day of July and ending with the 30th day of June in any year:

Struck Out (Unanimous)

“Museum” means the Auckland War Memorial Museum situated in the Auckland Domain: 30

New (Unanimous)

“Museum” means the museum known as the Auckland War Memorial Museum; and includes the operations, collections, and assets belonging to, in the possession of, or undertaken for that museum both present and future: 35

“Taumata-a-Iwi” means the Maori Committee established pursuant to **section 16** of this Act.

New (Unanimous)

“War Memorial Sanctuaries” means—

5 (a) The area known as the First World War Sanctuary, being that space located at the northern end of level two of the Auckland War Memorial Museum occupying four sides of the open atrium and containing the names of the Auckland Provincial war dead and a shrine in their honour; and

10 (b) The area known as the Second World War and Asian Wars Sanctuary and as the Hall of Memories, being that space running east/west at the midpoint of level two of the Auckland War Memorial Museum containing the names of the Auckland Provincial war dead of the Second World War, the names of war dead from the Asian Wars, and a shrine in their honour.

3. Constitution and powers of Board—(1) There shall
20 continue to be a body corporate to be called the Auckland Museum Trust Board which shall be the same body corporate as the Trust Board at present deemed to be registered under the provisions of the Charitable Trusts Act 1957 and called The Auckland Institute and Museum Trust Board.

25 (2) The Board shall from the establishment day cease to be deemed to be registered under the Charitable Trusts Act 1957; and the Registrar of Incorporated Societies is hereby empowered after the establishment day to amend the Register established under that Act accordingly.

30 (3) The Board shall continue to have perpetual succession and a common seal and shall for the purpose of its functions under this Act have and be empowered to exercise all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity.

35 (4) The common seal of the Board shall be judicially noted in all courts and for all purposes.

Struck Out (Unanimous)

(5) Subject to this Act, the Board shall adopt such procedures for the conduct of its affairs and the carrying out of its functions as it sees fit.

(6) Notwithstanding **subsection (1)** of this section, the Board shall from the establishment day have only such duties, functions, and powers as are conferred on it by this Act; and the Board's constitution, procedures, and rules shall be those set out in this Act or adopted by the Board pursuant to this Act on or after the establishment day.

4. Members of Board—(1) The Board shall consist of 10 members of whom—

(a) Five shall be appointed (and reappointed or replaced in accordance with **section 5** of this Act) by the contributing authorities in *(the manner set out in)* accordance with **section 13** of this Act: 15

(b) Four shall be appointed (and reappointed or replaced in accordance with **section 5** of this Act) by the Auckland Museum Institute in accordance with **section 14** of this Act: 20

(c) One shall be a *(Maori)* representative who shall be appointed (and reappointed or replaced in accordance with **section 5** of this Act) by the Taumata-a-Iwi in accordance with **section 16** of this Act.

(2) The members of the Board appointed pursuant to this section shall be persons who, in the opinion of those appointing them, have the *(management skill)* management skills, experience, and professional judgment necessary for the carrying out of the Museum's functions and achievement of the objectives as set out in sections 11 and 12 of this Act. 25 30

Struck Out (Unanimous)

(3) No person who is currently an elected or appointed member or employee of a contributing authority, the Institute Council, the Taumata-a-Iwi, the Auckland Regional Council, the Auckland Regional Services Trust, or a member of the Museum staff may be appointed or remain a member of the Board. 35

New (Unanimous)

5 (3) No person who is currently an elected or appointed member of a contributing authority, the principal administrative officer of a contributing authority, an employee of a contributing authority who reports directly to the principal administrative officer, a member or employee of the Institute Council or the Taumata-a-Iwi, or a member of the Museum staff may be appointed or remain a member of the Board.

10 (4) The first appointments to be made under paragraph (a) and paragraph (b) of subsection (1) of this section shall be made before the establishment day but if at least 5 members have been appointed by the establishment day the powers of the Board shall not be affected by any failure to appoint the remaining members.

15 (5) The term of office of the existing Trustees of the Auckland Institute and Museum Trust Board shall cease on the establishment day or (should fewer than 5 members have been appointed to the board by the establishment day) then on the date by which not less than 5 members have been appointed.

20 **5. Term of office of Board members—**

Struck Out (Unanimous)

25 (1) Subject to subsection (4) of this section, every Board member shall be appointed for a term of 2 years ending 2 years after the date of expiry of the term of his or her predecessor in office.

New (Unanimous)

30 (1) Subject to subsection (4) of this section and section 6 of this Act, every Board member shall be appointed for a term of two years commencing on the expiry of the previous term of appointment to that office.

(2) Every member shall be eligible for reappointment from time to time.

(3) Where the term of appointment of a member expires or ceases that member, unless sooner vacating or deemed to be removed from office pursuant to **section 6(1)** of this Act, shall continue to hold office by virtue of appointment for the term that has expired until—

- (a) That member is reappointed; or
- (b) A successor to that member is appointed.

(4) With respect to the first members appointed by the contributing authorities and by the Auckland Museum Institute the following provisions shall apply:

- (a) Three of the members appointed by the contributing authorities shall hold office for a term of 1 year and 2 shall hold office for a term of 2 years:
- (b) Two of the members appointed by the Auckland Museum Institute shall hold office for a term of 1 year and 2 shall hold office for a term of 2 years:
- (c) The term of each of the members so appointed shall (unless they otherwise agree among themselves) be determined by lot.

(5) The term of office of Board members appointed pursuant to **section 4(1)** of this Act and to whom **subsection (4)** of this section applies, shall end on the first or second (as the case may be) anniversary of the establishment day.

6. Extraordinary vacancies—(1) The term of appointment of a Board member shall cease and the vacancy so created shall be an extraordinary vacancy if that member—

- (a) Dies or becomes a member or employee of one of the bodies referred to in **section 4(3)** of this Act or a member of the Museum staff; or
- (b) Is declared bankrupt; or
- (c) Is absent without leave from 2 consecutive meetings of the Board; or
- (d) Resigns office by written notice to the Secretary of the Board (but in that case, if the terms of resignation so permit, may continue to hold office until his or her successor is appointed); or
- (e) Is convicted of an offence punishable by a term of imprisonment of 2 years or more; or
- (f) Becomes subject to a compulsory treatment order made under Part II of the Mental Health (Compulsory Assessment and Treatment) Act 1992 or becomes a special patient as defined in section 2(1) of that Act; or

(g) Becomes a person in respect of whom an order is made pursuant to the Protection of Personal and Property Rights Act 1988.

5 (2) An extraordinary vacancy shall be filled in the manner in which the appointment to the vacant office was originally made, and the member so appointed shall hold office only for the residue of the term of the vacating member.

10 (3) Where an extraordinary vacancy occurs within 6 months before the date fixed for the next appointment to the office vacated, the appointing body may determine that the vacancy shall not be filled.

(4) The powers of the Board shall not be affected by any vacancy in its membership.

15 **7. Meetings of Board and appointment of chairperson and deputy chairperson—**(1) The first meeting of the Board shall be called by the Director as soon as practicable after the establishment day and shall be chaired by the Director until a chairperson is elected from the members of the Board.

20 (2) At the first meeting of the Board the members shall elect from their number a chairperson and a deputy chairperson.

(3) The chairperson and deputy chairperson shall be elected annually and may stand for re-election.

25 (4) The chairperson shall preside at all meetings of the Board at which he or she is present and shall have such other functions, powers, and duties as may be delegated to him or her by the Board from time to time.

30 (5) The deputy chairperson shall act in place of the chairperson in any case where the chairperson is absent or for any reason unable to act. In the absence of the chairperson and the deputy chairperson from any meeting the members present shall appoint one of their number to be the chairperson of that meeting.

(6) Every question before the Board shall be decided in open voting by a majority of the votes recorded on it.

35 (7) At any meeting of the Board the person presiding shall have a deliberative vote and, in the case of equality of votes, shall also have a casting vote.

40 (8) Notwithstanding the provisions of subsections (4), (5), and (7) of this section or any other provision of this Act, in the case of all meetings held for the purpose of considering and *(adopting the)* preparing the draft annual plan—

(a) Such meetings shall consist of a committee of the Board comprising Board members appointed by the Board of whom *(either a majority or an equal number)* not less

than half shall be Board members appointed by the Electoral College pursuant to section 13 of this Act:

- (b) That committee shall appoint as chairperson for such meetings a member who is an appointee of the Electoral College, and that chairperson shall have a deliberative vote and, in the case of equality of votes, shall also have a casting vote. 5

8. Procedural rules—(1) Subject to the provisions of this Act, the Board shall regulate its own proceedings. 10

(2) The Board shall, as soon as practicable, adopt such procedural rules governing its affairs and the conduct of its meetings as it considers appropriate. 10

(3) Notwithstanding subsection (2) of this section, meetings of the Board shall be conducted in public unless good grounds exist for excluding the public. 15

Struck Out (Unanimous)

(4) Section 48 of the Local Government Official Information and Meetings Act 1987 shall apply for the purpose of determining whether good grounds exist for excluding the public, as if the Board were a local authority subject to that section. 20

New (Unanimous)

(4) Part VII of the Local Government Official Information and Meetings Act 1987 shall apply to the Board as if the Board were a local authority subject to that Part. 25

9. Remuneration of members of Board—(1) Members of the Board may be paid such remuneration as the Board from time to time considers appropriate, but in fixing the level of remuneration the Board shall have regard to the public purpose of its functions and the extent of public funding of its activities. 30

Struck Out (Unanimous)

(2) All remuneration so fixed shall be disclosed in the annual plan.

New (Unanimous)

5 (2) Nothing in subsection (1) of this section shall authorise the Board to pay remuneration to any member of the Board in any financial year of a greater amount than is specified in the annual plan adopted for that financial year.

10 **10. Board established for charitable purposes**—(1) The Board and the Institute are deemed to be established exclusively for charitable purposes within New Zealand, and all actions carried out by either of them pursuant to this Act shall be deemed to be carried out exclusively for charitable purposes.

15 (2) Any business carried on by the Board or by the Institute is deemed to be carried on exclusively for charitable purposes within New Zealand and not for the pecuniary gain of any person.

New (Unanimous)

20 **10A. Objectives**—In carrying out its functions under section 11 of this Act, the Board shall recognise and provide for, in such manner as it considers appropriate, the following:

25 (a) The recording and presentation of the history and environment of the Auckland Region, New Zealand, the South Pacific and, in more general terms, the rest of the world:

(b) Conservation of the heritage of the Museum, and of global resources:

(c) The role of the Museum as a war memorial:

30 (d) Celebration of the rich cultural diversity of the Auckland Region and its people:

(e) Education which involves and entertains people to enrich their lives and promote the well-being of society:

New (Unanimous)

- (f) The advancement and promotion of cultural and scientific scholarship and research:
- (g) Achievement of customer satisfaction by consultation, responsiveness, and continuous improvement: 5
- (h) Leadership through professionalism, innovation, and co-ordination of effort with relevant organisations:
- (i) Greater financial self-sufficiency through the prudent operation of compatible revenue-producing and fund-raising activities which supplement public funding: 10
- (j) Providing maximum community benefit from the resources available.

11. Duties, functions, and powers of Board—(1) Board members shall act at all times in the interests of the Museum rather than in the interests of the body appointing them, *to the extent that the interests of that body may be in conflict with the functions and powers set out in subsection (2) of this section and the objectives set out in section 12 of this Act.* 15

(2) The duties, functions, and powers of the Board shall be—

Struck Out (Unanimous)

- (a) To assume or to continue to hold ownership and possession of the Museum and such of its contents as were, before the coming into force of this Act, owned by the Auckland Institute and Museum Trust Board or the Auckland Institute and Museum, together with any other property or rights of any nature whatsoever, whether tangible or intangible, vested in the Auckland Institute and Museum Trust Board or the Auckland Institute and Museum, and to hold ownership and possession of such other property as may subsequently be acquired for the purposes of the Museum: 25
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New (Unanimous)

(a) To assume and continue to hold ownership and possession of the Museum:

5 (b) To exercise trusteeship in accordance with the terms of the respective trusts in respect of all assets ownership of which has heretofore been vested in the Auckland Institute and Museum Trust Board or in the Auckland Institute and Museum or which may in the future be vested in the Board, subject to any Trust:

10 *New (Unanimous)*

15 (ba) To observe and encourage the spirit of partnership and goodwill envisaged by the Treaty of Waitangi, the implications of mana Maori and elements in the care of Maori cultural property which only Maori can provide:

(c) To adequately maintain, manage, and develop the Museum *(and its contents)*:

(d) To take such actions as it considers necessary or desirable to further the objectives set out in **section 12** of this Act:

20 (e) To develop appropriate sources of income additional to funding by the contributing authorities:

(f) To consult with the Taumata-a-Iwi on all matters set out in **(section 16 (5)) section 16 (6)** of this Act, and to take due regard of the advice given:

25 (g) To support the Auckland Museum Institute:

(h) To exercise the power of appointment of a Director in accordance with **section 17** of this Act:

30 (i) To establish for the guidance of the Director broad lines of policy consistent with the objectives of the Museum and paragraphs (a) to (h) of this section:

Struck Out (Unanimous)

35 (j) To ensure effective operation by delegating, either to committees or members of the Board, the Director, or to other persons or bodies, where they are best suited to perform specific duties:

New (Unanimous)

(j) To delegate, to committees or members of the Board, the Director, or other persons or bodies, such specific duties as the Board considers are best performed by those committees, persons, or bodies:

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(k) To manage prudently the finances of the Museum.

(3) The Board shall have such powers, not inconsistent with this Act, as are reasonably necessary for the effective performance of its functions.

(4) On and from the establishment day, no person or body other than the Board shall be responsible for the maintenance, management, and development of the Museum building, its contents, and assets.

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Struck Out (Unanimous)

12. Objectives—(1) In carrying out its functions under section 11 of this Act, the Board shall recognise and provide, in such manner as it considers appropriate for, the following:

15

(a) The recording and presentation of the history and environment of Auckland, New Zealand, and the South Pacific and, in more general terms, the rest of the world:

20

(b) Conservation of the heritage of the Museum, the museum building and its collections, and of global resources:

(c) Biculturalism in the spirit of partnership and goodwill envisaged by the Treaty of Waitangi, the implications of mana Maori and elements in the care of Maori cultural property which only Maori can provide:

25

(d) The role of the Museum as a war memorial:

(e) Celebration of the rich cultural diversity of the Auckland region and its people:

30

(f) Education which involves and entertains people to enrich their lives and promote the well-being of society:

(g) The advancement and promotion of cultural and scientific scholarship and research:

(h) Achievement of customer satisfaction by consultation, responsiveness, and continuous improvement:

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(i) Leadership through professionalism, innovation, and coordination of effort with relevant organisations:

Struck Out (Unanimous)

- (j) Greater financial self-sufficiency through the prudent operation of compatible revenue-producing and fund-raising activities which supplement public funding:
- 5 (k) Providing maximum community benefit from the resources available.

13. Appointment of members by contributing authorities—(1) There is hereby constituted (*a Local Authority*) an Electoral College to be called the Auckland Museum Electoral College.

10 (2) The contributing authorities shall each appoint and from time to time reappoint to the Electoral College the number of representatives set out against their respective names in the third column of the Schedule to this Act.

15 (3) Representatives of the contributing authorities on the Electoral College shall hold office at the pleasure of the contributing authority by which they are appointed.

(4) The contributing authorities shall each appoint their representatives, and the Director shall call the first meeting of the Electoral College, as soon as practicable after the commencement of this Act.

20 (5) At its first meeting, the Electoral College shall elect a chairperson from its members. The chairperson shall preside at all meetings of the Electoral College at which he or she is present. In the absence of the chairperson from any meeting the representatives present shall appoint one of their number to be the chairperson of that meeting.

(6) At any meeting of the Electoral College 7 members shall form a quorum.

30 (7) The powers of the Electoral College shall not be affected by any vacancy in its membership.

(8) The Electoral College shall make the appointments to the Museum Board required by **section 4(1)(a)** of this Act. All appointments shall be by majority vote and, in the case of an equality of votes, the person presiding shall have a casting vote as well as a deliberative vote.

35 (9) Subject to the provisions of this Act, the Electoral College shall regulate its own proceedings.

14. Auckland Museum Institute—(1) There is hereby established, with effect from the establishment day, a learned

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society and membership body called the Auckland Museum Institute which is hereby declared to be the same body as the unincorporated society at present called the Auckland Institute and Museum.

(2) The Institute shall be a body corporate with perpetual succession and a common seal and shall, for the purpose of its functions under this Act, have and be empowered to exercise all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity.

(3) The objects of the Institute shall be to—

Struck Out (Unanimous)

- (a) Support the Museum in its functions and objectives as defined in sections 11 and 12 of this Act:
- (b) Function as a learned society:

New (Unanimous)

- (a) Function as a learned society:
- (b) Support the Museum in its objectives and functions as specified in section 10A and section 11 of this Act:

(c) Affiliate with such learned societies, including the Royal Society of New Zealand, as the Institute may from time to time consider appropriate.

(4) The Institute shall govern its own affairs through a Council elected in accordance with rules adopted and amended from time to time by the Institute.

(5) The Institute Council shall call for nominations and exercise on behalf of the Institute the powers of appointment to the Board conferred by sections 4 (1) (b), 5, and 6 of this Act.

(6) The existing rules of the Institute shall remain in force until amended, except to the extent that they are inconsistent with the provisions of this Act.

(7) Such of the President, Vice-President, Immediate Past President, and Councillors elected by members of the Auckland Institute and Museum as shall choose to remain in office shall hold office as the Institute Council until a Council is elected pursuant to the provisions of subsection (4) of this section.

5 **15. Membership of Auckland Museum Institute**—(1) All persons who on the establishment day were members of the Auckland Institute and Museum shall continue to be members of the Auckland Museum Institute, subject to the provisions of this section.

(2) The Institute and the Board shall recognise and give effect to such rights as were associated with life memberships and honorary life memberships of the Auckland Institute and Museum before the commencement of this Act.

10 (3) The Institute's rule may provide for both individual and corporate membership and for classes of membership.

15 (4) The Board shall grant borrowing rights to the Museum's Library to life members of the Institute and such other members as may contribute by specific (*levy*) subscription to the upkeep of the library. Borrowing rights shall be to such materials and on such terms and conditions as the Board from time to time determines, and the Board may, in the event of abuse of those rights by any member, withhold or withdraw such rights.

20 **16. Taumata-a-Iwi**—

Struck Out (Unanimous)

25 (1) There is hereby constituted a Maori Committee known as the Taumata-a-Iwi consisting of 5 persons of whom 1 each shall be appointed by each of the following bodies:

(a) Ngati Whatua o Orakei Maori Trust Board:

(b) Tainui Maori Trust Board:

(c) Ngati Paoa Whanau Trust:

(d) The Auckland District Maori Council:

30 (e) The Auckland Regional Council of the Maori Women's Welfare League.

New (Unanimous)

35 (1) There shall be a Maori Committee known as the Taumata-a-Iwi consisting of not less than 5 persons appointed by the Board.

(2) Each appointee to the Taumata-a-Iwi shall hold office for such period and on such terms as the *(body appointing them)* Board shall in each case determine.

Struck Out (Unanimous)

(3) The first appointments to the Taumata-a-Iwi to be made under **subsection (1)** of this section may be made before or after the establishment day and (subject to the provisions of **subsection (5)** of this section) the powers and responsibilities of the Taumata-a-Iwi shall commence either— 5

- (a) On the establishment day if not less than 3 members have been appointed by the establishment day; or 10
- (b) Otherwise as soon after the establishment day as not less than 3 members have been appointed.

New (Unanimous)

(3) The first appointments to the Taumata-a-Iwi under **subsection (1)** of this section shall be made as soon as is practicable after establishment day. 15

(3A) No person who is a member of the Museum staff may be appointed or remain a member of the Taumata-a-Iwi.

(4) The Taumata-a-Iwi shall exercise the powers of appointment to the Board conferred by **sections 4 (1) (c), 5, and 6** of this Act. 20

Struck Out (Unanimous)

(5) The first appointment to the Board to be made under **subsection (4)** of this section may be made before the establishment day if all 5 members have been appointed to the Taumata-a-Iwi at the date of such appointment. 25

New (Unanimous)

(5) The Taumata-a-Iwi shall regulate its own proceedings and shall, as soon as practicable, adopt such procedural rules governing its affairs and the conduct of its meetings as it considers appropriate. 30

New (Unanimous)

5 (5A) Members of the Taumata-a-Iwi may be paid such remuneration as the Board considers appropriate, provided that such payments to any member in any financial year shall not exceed the amount specified for that purpose in the annual plan adopted for that financial year.

10 (6) To assist the Board to ensure that the Board's policies in relation to the matters set out in paragraphs (a) to (d) of this subsection accord properly with Maori values as well as matters provided for in the Treaty of Waitangi, the Taumata-a-Iwi shall review proposed policies and make recommendations to the Board in relation to those matters:

15 (a) Custodial policies, and guardianship of all Maori taonga of whatever kind and tribal source:

(b) Staffing policies, including taking affirmative action in recruitment and training programmes, which will lead Maori people into professional careers in New Zealand's bicultural museums:

20 (c) Display policies, including presentation of Maori taonga to the public in a culturally appropriate and informative manner:

(d) Development policies, including protection of both the substance and status of Maori taonga in any Museum development plan.

25 (7) The Taumata-a-Iwi shall give advice on all matters of Maori protocol within the Museum and between the Museum and the Maori people at large.

30 **17. Director**—(1) The Board shall appoint a Director who shall be the chief executive of the Museum.

(2) The Board shall, in making any appointment under subsection (1) of this section, have regard to the need to appoint a person who—

35 (a) Can discharge the specific responsibilities placed on the appointee; and

(b) Will imbue the employees of the Museum with a spirit of service to the community; and

(c) Will promote efficiency in the Museum; and

(d) Will be a responsible manager; and

40 (e) Will maintain appropriate standards of integrity and conduct among the employees of the Museum; and

(f) Will ensure that the Museum is a good employer; and

(g) Will promote equal employment opportunities.

(3) The Director shall be appointed for a term of not more than 5 years, but shall be eligible for reappointment from time to time.

18. Responsibilities of Director—(1) The Director shall be responsible to the Board for— 5

- (a) Employing, on behalf of the Board, staff of the Museum and negotiating their terms and conditions of employment: 5
- (b) Implementing the decisions of the Board and ensuring that the affairs of the Board are conducted in a transparent and accountable manner: 10
- (c) Providing services and advice to members of the Board, the Taumata-a-Iwi, and the Institute Council, and consulting with the Taumata-a-Iwi on all matters set out in (*section 12 (1) (c)*) *section 11 (2) (ba)* of this Act: 15
- (d) Ensuring the effective, efficient, and economic management of the activities and planning of the Board in accordance with the objectives set out in (*section 12*) *section 10A* of this Act: 20
- (e) Ensuring that obligations imposed by the Treaty of Waitangi as they affect the Museum are taken into account: 25
- (f) Carrying out such other functions as may be delegated to him or her by the Board: 25
- (g) Maintaining liaison with, and giving administrative support to, the Electoral College. 25

19. General employment principles—(1) The Board shall adopt, and the Director shall implement, a personnel policy that complies with the (*principal*) principle of being a good employer. 30

(2) For the purposes of this section, a “good employer” is an employer who operates a personnel policy containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment, including provisions requiring— 35

- (a) Good and safe working conditions; and
- (b) An equal employment opportunities programme; and
- (c) The impartial selection of suitably qualified persons for appointment; and 40
- (d) Recognition of—
 - (i) The aims and aspirations of Maori people; and

(ii) The employment requirements of Maori people; and

(e) Opportunities for the enhancement of the abilities of individual employees; and

5 (f) Recognition of the aims and aspirations and the cultural differences of ethnic or minority groups; and

(g) Recognition of the employment requirements of women; and

10 (h) Recognition of the employment requirements of persons with disabilities.

(3) In addition to the requirements specified in **subsections (1) and (2)** of this section, the Board and the Director shall ensure that all employees maintain proper standards of integrity, conduct, and concern for the public interest.

15 **20. Transfer of existing employees—**(1) All persons who, immediately before the establishment day, were employed by the Auckland Institute and Museum or the Auckland Institute and Museum Trust Board, shall on the establishment day
20 transfer to or continue in the employment of the Board on the same terms and conditions, including preservation of continuity of service and the rights which arise in respect of length of service.

25 (2) For the avoidance of doubt, it is declared that no person to whom **subsection (1)** of this section applies shall be entitled to receive any payment or other benefit by reason only of the operation of **subsection (1)** of this section.

21. Continuity of Board's rights and obligations—

Struck Out (Unanimous)

30 (1) Ownership and possession of the Museum and such of its contents as were, on the establishment day, owned by the Auckland Institute and Museum Trust Board or the Auckland Institute and Museum, or by Auckland Museum Enterprises Limited, together with any other property or rights of any nature whatsoever, whether tangible or intangible, vested in
35 the Auckland Institute and Museum Trust Board or the Auckland Institute and Museum or Auckland Museum Enterprises Limited shall, by operation of this Act, vest or continue to vest in the Board on and after the establishment day.

New (Unanimous)

(1) Subject to subsection (3) of this section, ownership and possession of the Museum shall, by operation of this Act, vest or continue to vest in the Board on and after the establishment day.

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(2) On and after the establishment day the Board shall have or continue to have, and be responsible for, all rights and obligations which had previously reposed in the Auckland Institute and Museum, its Council, or the Auckland Institute and Museum Trust Board or Auckland Museum Enterprises Limited in respect of the property and rights described in subsection (1) of this section.

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(3) Every appointment of the Auckland Institute and Museum or the Auckland Institute and Museum Trust Board as beneficiary, trustee, custodian, or guardian of any collections, gifts, bequests, or cultural property of any kind, or as agent or as a fiduciary in any capacity, whether by will or other instrument or by statute, shall on the establishment day vest or continue to vest in and be deemed to be an appointment of the Board; and the Board shall have the rights, powers, capacities, authorities, duties, liabilities, and obligations of the Auckland Institute and Museum Trust Board and Auckland Institute and Museum in respect of and arising from every such appointment, but this provision shall not operate to prevent—

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(a) The Institute from acquiring and holding property and other rights after the establishment day in support of its objectives; or

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(b) A gift being made to and received beneficially by the Institute—

(i) After the establishment day, in the case of *inter vivos* gifts; or

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(ii) By will dated after the establishment day in the case of testamentary gifts.

(4) The vesting of all property or rights of any nature, whether tangible or intangible, in the Board or the Institute pursuant to this section of this Act shall not be treated as a disposition of property for the purposes of the Estate and Gift Duties Act 1968, or as a conveyance for the purposes of the Stamp and Cheque Duties Act 1971, or as a disposal or disposition for the purposes of section EG 19 of the Income Tax Act 1994.

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(5) Any income or gain derived by Auckland Museum Enterprises Limited in respect of the vesting of property or rights of any nature, whether tangible or intangible, in the Board or the Institute shall not be treated as assessable income for the purposes of the Income Tax Act 1994.

(6) The vesting of all property or rights of any nature, whether tangible or intangible, in the Board or the Institute pursuant to this section of this Act shall be charged with goods and services tax at the rate of zero percent.

(7) Nothing in this Act shall—

(a) Have the effect of placing the Board, the Institute, or any other person in breach of contract or breach of trust or otherwise in breach of any civil obligation; or

(b) Give rise to a right for any person, including the Crown, to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; or

(c) Release any surety (including the Crown) wholly or in part from all or any obligation; or

(d) Invalidate or discharge any contract or security (including any contract or security to which the Crown is a party); or

(e) Place the Auckland Institute and Museum, the Auckland Institute and Museum Trust Board, the Board, or any other person (including the Crown) in breach of any contractual provision prohibiting, restricting, or regulating the assignment or transfer of any property or disclosure of any information.

(8) The resolutions, acts, and omissions of the Council of the Auckland Institute and Museum and the Auckland Institute and Museum Trust Board before the establishment day shall be deemed to be resolutions, acts, and omissions of the Auckland Museum Trust Board.

New (Unanimous)

21A. Annual plan—(1) In this section, the term “the committee” means the committee of the Board constituted under **section 7 (8)** of this Act.

(2) The committee shall prepare, on behalf of the Board, for each financial year a draft annual plan, which shall outline in particular terms for the financial year to which the report relates, and in general terms for each of the following 2 financial years,—

New (Unanimous)

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| <p>(a) Subject to section 10A of this Act, the intended significant policies and objectives of the Board; and</p> <p>(b) The nature and scope of the significant activities to be undertaken; and</p> <p>(c) The performance targets and other measures by which performance may be judged in relation to the objectives; and</p> <p>(d) The indicative costs of the activities of the Board; and</p> <p>(e) The sources of funds for those activities; and</p> <p>(f) The details of any proposed charges to be made for access to any part or parts or service or services of the Museum; and</p> <p>(g) The indicative amount of the levy which is proposed under section 22 of this Act; and</p> <p>(h) The maximum remuneration payable by the Board during the financial year to—</p> <p style="padding-left: 2em;">(i) Any member of the Board, pursuant to section 9 (2) of this Act; and</p> <p style="padding-left: 2em;">(ii) Any member of the Taumata-a-Iwi, pursuant to section 16 (5A) of this Act.</p> <p>(3) During the preparation of, and before the publication of the draft annual plan, the chairperson of the committee shall meet with the chairperson of the Electoral College as often as may be necessary to determine if aspects of the annual plan, including the amount of the proposed levy, should be referred to a meeting or meetings of the committee and the Electoral College, either jointly or separately, for consideration before the draft annual plan is published.</p> <p>(4) A draft annual plan under this section shall include an explanation of any significant changes between the policies, objectives, activities, and performance targets proposed in the draft annual plan and those specified in the annual plan adopted for the immediately preceding financial year.</p> <p>(5) The draft annual plan shall, immediately after it has been prepared to the satisfaction of the committee, be reported to the Board, and be made available to the general public and forwarded to each of the contributing authorities, the Taumata-a-Iwi and the Institute Council.</p> <p>(6) Any person, including any contributing authority, the Taumata-a-Iwi, the Institute Council and the Electoral College, may within 1 month after publication of the draft annual plan,</p> | <p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> |
|--|--|

New (Unanimous)

make a written submission to the Board in relation to any matters contained in the draft annual plan.

5 (7) Where any contributing authority makes a submission under **subsection (6)** of this section, that authority shall also send a copy of that submission to the Electoral College.

(8) The Board shall give to every person making a submission under **subsection (6)** of this section a reasonable opportunity to appear and be heard in relation to that submission.

10 (9) Subject to **section 8 (3)** of this Act, every meeting of the Board (or of any committee of the Board) at which submissions are heard or at which the Board deliberates on the proposed annual plan shall be open to the public.

15 (10) After considering the submissions and making such modifications to the draft annual plan as the Board may consider appropriate in the light of the submissions, the Board shall refer the draft annual plan to the Electoral College for approval of the levy.

20 (11) If the Board and the Electoral College cannot reach agreement on the amount of the levy, the dispute shall be referred to an independent arbitrator appointed by them both, (or by the Minister of Local Government if they are unable to agree on the person to be appointed) who will determine the levy taking into account the minimum obligations placed on
25 the Board by this Act and the submissions of both parties and the levy so determined shall be the levy to be made for that financial year under **section 22 (1)** of this Act.

30 (12) Every determination pursuant to **subsection (11)** of this section shall be made in time for the Board to comply with its responsibilities under **subsection (5) of section 22** of this Act on or before the 30th day of April immediately preceding the commencement of the financial year to which the levy relates and it shall be incumbent upon the committee, the Electoral College and the Board to comply with the requirements of
35 **subsections (2) to (11)** of this section by such dates as will enable the requirements of this subsection to be met.

40 (13) After approval of the levy (either in the amount stipulated in the draft annual plan referred to the Electoral College under **subsection (10)** of this section or in the such other amount as may subsequently be agreed upon between the Board and the Electoral College) or determination of the levy pursuant to **subsection (11)** of this section, the Board shall adopt

New (Unanimous)

the draft annual plan as referred to the Electoral College under subsection (10) of this section, subject to any modifications required by any difference in the amount of the levy agreed with the Electoral College or determined pursuant to subsection (11) of this section. 5

(14) The annual plan shall be adopted by the Board no later than the 30th day of April immediately preceding the commencement of the financial year to which the annual plan applies. 10

(15) Where the Board adopts an annual plan under this section it shall—

- (a) Make that annual plan available for public inspection at its office; and
- (b) Within 20 days of its adoption, send copies of the annual plan to each contributing authority, the Taumata-a-Iwi, and the Institute Council. 15

22. Contributions by local authorities to Museum funding—(1) Subject to the provisions of subsection (7) of this section and section 25 of this Act, the Board may, for each financial year, for the purposes of funding its activities (including maintenance, operations, and development) under this Act, by resolution make a levy against the contributing authorities of such amount and in such manner as is authorised or is required by this Act. 20 25

(2) For the purposes of this section—

- (a) The capital value of rateable property within the district of each contributing authority shall be deemed to be the capital value thereof as at a date as near as is reasonably practicable to the last day of the financial year preceding by one year the financial year in respect of which the levy is to be made, such value being determined under the Valuation of Land Act 1951 and certified as correct by the Valuer-General who shall (without further direction than is contained herein) apply thereto the provisions of Part XIV of the Rating Powers Act 1988: 30 35

- (b) The population of the district of each contributing authority shall be that which is ascertained or calculated by the Government Statistician as at a date as near as is reasonably practicable to the last day of 40

the financial year preceding by one year the financial year in respect of which the levy is to be made, and a certificate by the Government Statistician shall be conclusive evidence in that respect.

5 (3) An adjustment of the capital value of rateable property and of the population of the district of each contributing authority, each calculated as aforesaid, shall be made by multiplying that capital value and that population by the differential factor shown opposite the name of each
10 contributing authority in the Schedule to this Act.

(4) The total amount of the levy against each contributing authority shall not exceed in any year 1/50c in the dollar on the total capital value of rateable property in its district (adjusted as aforesaid) plus 2.5c per person of the population of
15 its district (adjusted as aforesaid).

(5) The Board shall, in the resolution referred to in subsection (1) of this section, or, if the levy is fixed by arbitration, in a separate resolution for that purpose, fix the amount to be levied against each of the contributing authorities, and a copy
20 of the resolution shall be forwarded to each of the contributing authorities on or before the 30th day of April preceding the financial year in respect of which the levy is made. The relevant amount so levied shall be due and payable by each contributing authority on the 1st day of July next following,
25 *(and it may at the option of the contributing authority be paid out of its general funds, or out of the proceeds of a rate as provided for in section 23 of this Act)* and shall be paid out of the general revenues of the contributing authority.

(6) If the district of a contributing authority is altered as the
30 result of the total or partial absorption thereof by any other local authority (whether or not that local authority is a contributing authority) or as the result of the contributing authority absorbing the whole or part of the district of any other local authority (whether or not that local authority is a
35 contributing authority) or as the result of the amalgamation of a contributing authority with any other local authority (whether or not that local authority is a contributing authority) or as the result of the division of a contributing authority into 2 or more local authorities, the area that was hitherto subject to
40 a levy in terms of this Act shall continue to be so subject, but upon the terms and conditions following:

(a) The area or areas previously subject to the levy shall
45 continue to be so subject and the differential factor previously applicable thereto shall continue to apply unless an area is absorbed into the district of another

contributing authority, in which case the differential factor applicable to the latter shall apply to the area for the year after the happening of that event and thereafter:

- (b) No account shall be taken of the fact that the foregoing circumstances may result in part only of the district of a local authority being levied: 5
- (c) Nothing in paragraphs (a) and (b) of this subsection shall enable the Board to impose a levy upon any area that, at the date of which this Act came into force, is outside the districts of the contributing authorities: 10
- (d) Notwithstanding the provisions of paragraphs (a) and (b) of this subsection, the Local Government Commission is hereby empowered, in the exercise of its jurisdiction in regard to the constitution, alteration, union, or abolition of the district of a territorial authority, to review the effect of the said paragraphs upon the matter before it, and to make such other provision in that behalf and for such period as it may think appropriate. 15

(7) The Board shall not make any levy under this section until it has complied with the *(consultative procedures set out in section 24)* annual plan for that financial year that has been adopted under section 21A (14) of this Act. 20

Struck Out (Unanimous) 25

(8) If the Board and the Electoral College cannot reach agreement on the amount of the levy the dispute shall be referred to an independent arbitrator appointed by them both, (or by the Minister of Local Government if they are unable to agree on the person to be appointed) who will determine the levy taking into account the minimum obligations placed on the Board by this Act and the submissions of both parties. The levy so determined shall be deemed to have been made pursuant to **subsection (1)** of this section. 30

(9) A determination pursuant to **subsection (8)** of this section shall be made in time for the Board to comply with its responsibilities under **subsection (5)** of this section on or before the 30th day of April in that year. 35

23. Rate may be struck—In addition to any other rate which it is authorised to make, a contributing authority may from time to time strike a rate in its district to be known as the 40

Struck Out (Unanimous)

5 Auckland Museum rate, for the purpose of providing its contribution payable to the Board in terms of this Act; and the provisions of the Rating Powers Act 1988 shall apply to any such rate.

New (Unanimous)

10 **23. Separate rate**—For the purposes of section 16 of the Rating Powers Act 1988, the payment of any levy under **section 22 (5)** of this Act shall be deemed to be a contribution to a service for the benefit of the whole district of the contributing authority.

Struck Out (Unanimous)

15 **24. Annual plan consultation**—(1) In this section, the term “committee” means the committee of the Board constituted under **section 7 (8)** of this Act.

(2) For the purposes of **section 22 (7)** of this Act, the committee shall follow the procedure set out in this section.

20 (3) The committee shall prepare for each financial year an annual plan, which shall outline in particular terms for the financial year to which the report relates, and in general terms for each of the following 2 financial years,—

(a) Subject to **section 12** of this Act, the intended significant policies and objectives of the Board; and

25 (b) The nature and scope of the significant activities to be undertaken; and

(c) The performance targets and other measures by which performance may be judged in relation to the objectives; and

(d) The indicative costs of the activities of the Board; and

30 (e) The sources of funds for those activities; and

(f) The indicative amount of the levy which the committee will wish to make under **section 22** of this Act.

35 (4) During the preparation of, and before the publication of, the draft annual plan, the committee chairperson shall meet with the chairperson of the Electoral College as often as may

Struck Out (Unanimous)

be necessary to determine if aspects of the annual plan, including the amount of the proposed levy, should be referred to a meeting or meetings of the committee and the Electoral College, either jointly or separately, for consideration before the draft plan is published. 5

(5) A draft annual plan under this section shall include an explanation of any significant changes between the policies, objectives, activities, and performance targets specified in the draft annual plan and those specified in the annual plan for the immediately preceding financial year. 10

(6) The draft annual plan shall, immediately after it has been prepared to the satisfaction of the committee, be made available to the general public and forwarded to each of the contributing authorities, the Taumata-a-Iwi, and the Institute Council. Each of those bodies and any member of the public may, within 1 month after receipt of the draft annual plan, make written submissions to the committee in relation to any matters contained in the draft annual plan. The contributing authorities shall send a copy of all submissions to the Electoral College which may also present a submission on its own behalf. 15 20

(7) The committee shall give to any of the bodies referred to in subsection (6) of this section a reasonable opportunity to be heard in relation to the submissions made and may, at its discretion, hear submissions from members of the public and other parties. 25

(8) Subject to section 8(3) of this Act, every meeting of the committee at which the submissions are heard or at which the committee (or any subcommittee of the committee) deliberates on the proposal shall be open to the public. 30

(9) After considering the submissions and making such modifications to the draft annual plan as the committee may consider appropriate in the light of the submissions, the committee shall refer the draft annual plan to the Electoral College for approval of the levy. 35

(10) After approval of the levy (either in the amount stipulated in the draft annual plan or such other amount as may subsequently be agreed upon between the committee and the Electoral College) or determination of the levy pursuant to section 22(8) of this Act, the Board shall adopt the draft annual plan as the annual plan modified as may be appropriate by any change to the indicative amount of the levy approved by the 40

Struck Out (Unanimous)

Electoral College or determined pursuant to **section 22 (8)** of this Act.

5 (11) The annual plan shall be adopted by the Board no later than the 30th day of April preceding the financial year to which the annual plan applies.

25. Public access to War Memorial—Notwithstanding any other provision of this Act but without limiting its powers in any other respect, the Board shall ensure that free public access is available to the memorial sanctuaries during such hours as the Museum is open to the public.

26. Members of Board and Institute Council not personally liable—(1) No member of the Board or the Institute Council shall be personally liable for any act done or default made by the Board or by the Institute Council or any member thereof in good faith in the course of the operations of the Board or Institute Council.

20 (2) No person shall incur personal liability as a result of having joined in or acted on any resolution of the Auckland Institute and Museum or the Council of the Auckland Institute and Museum or the Auckland Institute and Museum Trust Board made before the establishment day in any circumstances wherein such person would not incur personal liability in joining in or acting on any resolution of the Board.

25 **27. Audit and accounts**—(1) An auditor shall be appointed by the Board on the recommendation of the Electoral College.

(2) The provisions of section 223F of the Local Government Act 1974 shall apply to the Board as if it were a local authority constituted under that Act.

30 *Struck Out (Unanimous)*

35 (3) As soon as practicable after the end of each financial year, the Board shall prepare such statements of account as are necessary to show fully the achievement level in comparison to performance targets set out in the annual plan, including the financial position of the Board at the end of that year and the financial results of its operations during the year.

New (Unanimous)

- 27A. Annual report**—(1) The Board shall prepare and adopt, in respect of each financial year, a report assessing the performance of the Board against the policies, objectives, activities, performance targets, indicative costs, and sources of funds specified in the annual plan adopted in respect of that financial year under **section 21A** of this Act. 5
- (2) The report adopted under **subsection (1)** of this section shall contain audited financial statements for the year consisting of— 10
- (a) A statement of financial position; and
 - (b) An overall operating statement; and
 - (c) A statement of cash flows; and
 - (d) Such other statements as may be necessary to fairly reflect the financial position of the Board, the resources available to it, and the financial results of its operations. 15
- (3) The report adopted under **subsection (1)** of this section shall contain—
- (a) The auditor's report— 20
 - (i) On the financial statements specified in **subsection (2)** of this section; and
 - (ii) On the performance targets and other measures by which performance has been judged in relation to the objectives; and 25
 - (b) Such other information as is necessary to enable an informed assessment of the operations of the Board for the financial year and the projected performance of the Board for the financial year as set out in the plan adopted in respect of the financial year under **section 21A** of this Act. 30
- (4) The report adopted under **subsection (1)** of this section shall be adopted before the end of the fifth month after the close of the financial year to which it relates.
- (5) Where the Board adopts a report under this section, it shall— 35
- (a) Make that report available for public inspection at its office; and
 - (b) Within 20 working days of its adoption, send copies of the report to each contributing authority and the Institute Council. 40

New (Unanimous)

5 **27B. Contributing authorities to report on involvement**—Each contributing authority shall include in its annual report prepared under section 223E of the Local Government Act 1974, in respect of each financial year, information concerning its involvement with, and its financial contributions to, the Board.

10 **28. Registers**—(1) No Registrar of Deeds or District Land Registrar or other person charged with the keeping of any books or registers is obliged solely by reason of this Act to change the name of the Board in those books or registers or in any document.

15 (2) The presentation to any such Registrar or person of any instrument, whether or not comprising an instrument of transfer by the Board,—

(a) Executed or purporting to be executed by the Board; and

(b) Relating to the property, rights, and appointments defined in section 21 (1), (2) and (3) of this Act; and

20 (c) Containing a recital that the name of the Board has been changed by virtue of this Act or, as the case may require, that the property, rights or appointments concerned have vested in the Board by virtue of this Act—

25 shall be, in the absence of proof to the contrary, sufficient evidence that the name of the Board has been changed or that the property, rights, or appointments referred to in that instrument is or are vested in the Board.

(3) Except as provided in this section, nothing in this Act derogates from the provisions of the Land Transfer Act 1952.

30 (4) The registrar of a register relating to property or rights which is transferable only in books kept by a company or in a manner directed by or under an Act shall, on written application under the seal of the Board, register the Board in its new name as the holder of that property or right.

35 **29. Repeals and revocations**—(1) The following enactments are hereby repealed:

(a) The Auckland Museum Endowment Act 1882:

(b) The Auckland War Memorial Museum Maintenance Act 1979:

- (c) The Auckland War Memorial Museum Maintenance Amendment Act 1980:
- (d) The Local Authorities (Members' Interests) Amendment Act 1988:
- (e) Section 48 of the Local Government Reform (Transitional Provisions) Act 1990. 5
- (2) The following orders are hereby revoked:
- (a) The Auckland War Memorial Museum Maintenance Amendment Act Commencement Order 1980 (S.R. 1980/260 and *Gazette*, 1980, Volume III, page 4039): 10
- (b) Part XII of the Local Government (Auckland Region) Reorganisation Order 1989 (*Gazette*, 1989, Volume III, page 2271).

New (Unanimous)

- 29A. Amendment to other Acts**—(1) The Ombudsmen Act 1975 is hereby amended by omitting from Part III of the First Schedule the words “The Auckland Institute and Museum Trust Board”, and substituting the words “The Auckland Museum Trust Board”. 15
- (2) The Local Authorities (Members' Interests) Act 1968 is hereby amended by omitting from Part II of the First Schedule the item relating to “The Council of the Auckland Institute and Museum”, and inserting, after the item relating to the Auckland Electric Power Board, an item relating to “The Auckland Museum Trust Board”. 20 25
- (3) The Antiquities Act 1975 is hereby amended by omitting from the Schedule the words “Auckland Institute and Museum, Auckland”, and substituting the words “Auckland War Memorial Museum, Auckland”. 25

- 30. Interim control**—Between the coming into force of this Act and the establishment day, the Council of the Auckland Institute and Museum and the Auckland Institute and Museum Trust Board shall continue to exercise and be responsible for their respective responsibilities concerning the Auckland War Memorial Museum and its contents under the Auckland War Memorial Museum Maintenance Act 1979, as if that Act had not been repealed. 30 35

SCHEDULE

Section 13 (2)

REPRESENTATIVES OF CONTRIBUTING AUTHORITIES

Name of Contributing Authority	Differential Factor	Members of Electoral College
Rodney District Council	0.6	1 appointee
North Shore City Council	1.0	2 appointees
Waitakere City Council	1.0	2 appointees
Auckland City Council	1.0	3 appointees
Manukau City Council (<i>Papakura City Council</i>)	1.0	3 appointees
<u>Papakura District Council</u>	1.0	1 appointee
<u>Franklin District Council</u>	0.6	1 appointee