

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Wednesday, 24 June 1992

TRANSPORT AMENDMENT BILL

Proposed Amendments

Hon. W. ROB STOREY, in Committee, to move the following amendments:

PART V

AMENDMENTS TO LOCAL GOVERNMENT ACT 1974

Clauses 80 to 88: To insert, after *clause 79*, the following clauses:

80. Auckland catchment land—Section 619A(3)(b) of the principal Act (as enacted by section 61 of the Local Government Amendment Act 1992) is hereby amended by inserting, after the words “licences to use”, the words “or easements over”.

81. Residual powers of Auckland Regional Council—Section 707AA of the principal Act (as enacted by section 67(1) of the Local Government Amendment Act 1992) is hereby amended by repealing subsections (1) and (2), and substituting the following subsections:

“(1) Notwithstanding section 50 of the Local Government Amendment Act 1992, but subject to subsection (2) of this section, it is hereby declared that the Auckland Regional Council shall retain the same powers—

“(a) To dispose of refuse; and

“(b) To require and maintain designations for the purposes of and in relation to refuse disposal; and

“(c) To dispose of leachate, gas, and other noxious or harmful substances which emanate from time to time from refuse or waste deposited at sites designated by it,—

as it had both before the commencement of section 50 of the Local Government Amendment Act 1992 and before the transfer of its refuse disposal undertaking to Northern Disposal Systems Limited on the 1st day of November 1991.

“(2) Notwithstanding subsection (1) of this section, but without limiting the powers of the Auckland Regional Council under paragraphs (b) and (c) of that subsection, it is hereby declared that the Auckland Regional Council may exercise from time to time its power under paragraph (a) of that subsection (being the power to dispose of refuse) only if, in its opinion, the business of refuse disposal in the Auckland Region has failed or is likely to fail.”

82. Interpretation—(1) Section 707N of the principal Act (as enacted by section 68(1) of the Local Government Amendment

Act 1992) is hereby amended by inserting in the definition of the term “non-core assets”, after the words “real or personal, held or used by the Auckland Regional Council”, the words “(as at the date on which the plan prepared under section 707Q of this Act is approved pursuant to subsection (11) of that section)”.

(2) Section 707N of the principal Act (as so enacted) is hereby further amended by repealing paragraph (a) of the definition of the term “specified assets”, and substituting the following paragraph:

“(a) All the shares owned by the Auckland Regional Council in the specified companies as at the date on which the plan prepared under section 707Q of this Act is approved pursuant to subsection (11) of that section.”.

83. New sections inserted—The principal Act is hereby amended by inserting, after section 707Q (as enacted by section 68 (1) of the Local Government Amendment Act 1992), the following sections:

“707QA. Special provisions in relation to transfers of assets and liabilities to Watercare Services Limited and Regional Forests Limited—Notwithstanding anything in section 707Q of this Act, it is hereby declared, for the avoidance of doubt, that—

“(a) Where the water services assets and the specified liabilities that relate to the water services assets, or any of those assets or liabilities, have, before the date on which the plan is approved pursuant to section 707Q(11) of this Act, been transferred to Watercare Services Limited pursuant to Part XXXIVA of this Act, provision for the transfer of those assets and liabilities, or such of them as have been so transferred, as the case may require, shall not be included in the plan pursuant to section 707Q(2) (a) (i) of this Act:

“(b) Where any of the specified assets or any of the specified liabilities that relate to the business intended for Regional Forests Limited have, before the date on which the plan is approved pursuant to section 707Q(11) of this Act, been transferred to Regional Forests Limited pursuant to Part XXXIVA of this Act, provision for the transfer of such of those assets and liabilities as have been so transferred shall not be included in the plan pursuant to section 707Q(2) (a) (ii) of this Act:

“(c) The transfers of assets and liabilities to Watercare Services Limited and Regional Forests Limited that are contemplated by Part XXXIVA of this Act (and by the establishment plans referred to in paragraph (f) of the definition of the term ‘non-core assets’ in section 707N of this Act) may proceed and be pursued before the date on which the plan is approved pursuant to section 707Q(11) of this Act, but if those transfers have not occurred or have not been completed, before that date, section 707Q of

this Act shall apply, to the exclusion of Part XXXIVA of this Act, with respect to those transfers.

“707QB. Prohibition on sale or other disposition of water services assets and shares in Watercare Services Limited—Except as provided in section 707Q of this Act or by way of a transfer of the kind described in section 707QA (c) of this Act, the Auckland Regional Council shall not sell, dispose of, or otherwise alienate, in any way, any of the water services assets or any shares in Watercare Services Limited.”

84. Uses deemed to be permitted uses—The principal Act is hereby amended by repealing section 707Y (as enacted by section 68 (1) of the Local Government Amendment Act 1992), and substituting the following section:

“707Y. Where any land or interest in land, being part of the specified assets is, pursuant to this Act, transferred to a specified company or to the Trust, the use of that land or interest in land which is established at the date of the transfer shall be deemed to be a permitted activity under the Resource Management Act 1991 until the completion of the review of the district plan, or appropriate part of the district plan, next undertaken following the transfer, and thereafter the status of that use shall be as provided from time to time in or under the district plan.”

85. Water services—The principal Act is hereby amended by repealing section 707ZF (as enacted by section 68 (1) of the Local Government Amendment Act 1992), and substituting the following section:

“707ZF. (1) Notwithstanding anything in this Act or any other Act, Watercare Services Limited and any other company undertaking the functions and business of the Auckland Regional Council in relation to waterworks, bulk water-supply, sewerage, and the collection, treatment, and disposal of sewage and trade wastes—

“(a) Shall manage the water services assets and the associated liabilities efficiently with a view to ensuring minimum prices for services consistent with maintaining the long-term integrity of the water services assets:

“(b) Shall calculate its prices and charges (excluding prices and charges for the treatment and disposal of trade wastes and for the ancillary functions described in paragraph (f) of this subsection) so as to recover only operating costs, which—

“(i) For the avoidance of doubt, shall include interest; and

“(ii) In respect of infrastructural assets, but subject to paragraph (c) of this section, shall include in lieu of depreciation, provision for planned maintenance and renewals:

“(c) May fund capital requirements (including significant renewals in respect of infrastructural assets) and the principal element of loan repayments by having customer territorial authorities subscribe for such non-voting equity shares in itself as may be agreed between its owner and those territorial authorities,

but, to the extent that customer territorial authorities decline to subscribe for such non-voting equity shares, may fund such capital requirements and loan repayments by borrowing, or by prices and charges negotiated in terms of any relevant contract, or by both:

- “(d) Subject to subsection (2) of this section, shall not pay any dividend or distribute any surplus in any way, directly or indirectly, to its owner or any shareholder:
- “(e) Subject to subsection (2) of this section, shall decide promptly in respect of any year in which a surplus arises, whether or not to return that surplus to its customers and, if it is to do so, to determine and implement the method by which that surplus may be returned, whether by way of rebate, discount, price adjustment calculated by reference to prior or future charges to those customers, or otherwise:
- “(f) Shall be limited to the performance of functions, and the conduct of business, in relation to waterworks, bulk water-supply, sewerage, and the treatment and disposal of sewage and trade wastes, but shall have authority to exercise—
 - “(i) Such powers ancillary to those functions as were, immediately before the commencement of section 68 of the Local Government Amendment Act 1992, being exercised by the Auckland Regional Council in relation to the water services assets; and
 - “(ii) Such powers as it agrees, with all territorial authorities in the Auckland region, to perform for those territorial authorities or in conjunction with them:
- “(g) Shall—
 - “(i) Until the close of the 30th day of June 1993, but not later, be entitled to apply the provisions of the Auckland Regional Council Trade Waste Bylaw 1991; and
 - “(ii) Until the close of the 30th day of June 1994, but not later, be entitled to exercise the powers under the Auckland Metropolitan Drainage Act 1960 that relate directly to the water services assets, as if it were and always had been the Auckland Regional Council:
- “(h) Shall not be required to comply with section 594T (f) of this Act but shall instead specify the means by which any residual surplus is to be returned to its customers:
- “(i) Shall not be required to comply with section 594z (5) (b) of this Act:
- “(j) Shall in its financial statements, identify clearly and separately—
 - “(i) The financial position of its waterworks and bulk water-supply activities; and
 - “(ii) The financial position of its activities in relation to sewerage and the collection, treatment, and disposal of sewage and trade wastes:
- “(k) Shall ensure that its water and drainage services are costed and priced separately:

“(l) Shall be required to deliver to the Trust, the Auckland Regional Council, and each of the territorial authorities within the Auckland Region a copy of its draft statement of corporate intent at the same time as it is obliged to provide its draft statement of corporate intent to its shareholders under section 594s of this Act:

“(m) Shall be required to consider any comments on the draft statement of corporate intent that are made to it by any of the Trust, the Auckland Regional Council, and the territorial authorities within the Auckland Region within 2 months after the commencement of the financial year:

“(n) Shall give written notice to all territorial authorities within the Auckland region of any proposed modifications of its then current statement of corporate intent and consider comments on the proposed modifications made by any of them.

“(2) Nothing in subsection (1) (d) or (e) of this section limits the right of any person who is both a customer and a shareholder to participate in any surplus returned to customers pursuant to subsection (1) (e) of this section.

“(3) On or before the Order in Council referred to in section 707R (1) of this Act takes effect, the Auckland Regional Council shall take all actions necessary to amend the articles of association and memorandum of association of Watercare Services Limited to ensure that the powers of Watercare Services Limited and of its management are sufficiently limited to ensure that it complies with paragraphs (a) to (f) of subsection (1) of this section.

“(4) Notwithstanding section 594zP of this Act, a local authority may give a guarantee, indemnity, or security in respect of the performance of any obligation by Watercare Services Limited or any other company undertaking the functions and business of the Auckland Regional Council in relation to water works, bulk water-supply, sewerage, and the collection, treatment, and disposal of sewage and trade wastes.”

86. Functions of Trust—(1) Section 707zJ (1) of the principal Act (as enacted by section 68 (1) of the Local Government Amendment Act 1992) is hereby amended by inserting, after paragraph (d), the following paragraph:

“(da) To ensure that Watercare Services Limited does not dispose of its undertaking or any material part or parts thereof which is or are necessary to the conduct of its business:”.

(2) Section 707zJ (1) of the principal Act (as so enacted) is hereby further amended by repealing paragraph (f), and substituting the following paragraph:

“(f) To manage the assets referred to in paragraphs (b) to (e) of the definition of the term ‘non-core assets’ in section 707N of this Act in accordance with sound business practice but with a view to selling, in the short to medium term, the assets referred to in those paragraphs:”.

(3) Section 707zJ (1) of the principal Act (as so enacted) is hereby further amended by inserting in paragraph (i), after the

words “local reticulation of water”, the words “and local sanitary drainage”.

87. Annual report to public concerning performance—Section 25 (2) of the Local Government Amendment Act 1992 is hereby amended by omitting the expression “subsection (5) (b)”, and substituting the expression “subsection (5) (a)”.

88. Membership and constituencies of regional councils—(1) The part of the Seventh Schedule to the Local Government Amendment Act 1992 that relates to the Waikato Regional Council is hereby amended by omitting the provisions defining the Waipa-Waitomo Constituency, and substituting the following provisions:

“	Waipa-Waitomo	Otorohanga Waitomo (pt) Waipa	Waitomo Te Kuiti Aria Mangaokewa (pt) Paemako Tainui Te Anga	2 ”
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(2) The part of the Seventh Schedule to the Local Government Amendment Act 1992 that relates to the Bay of Plenty Regional Council is hereby amended by inserting, after the words “Western Bay of Plenty” where it appears in the column headed “Names of Constituencies”, the figure “4”.

(3) The Seventh Schedule to the Local Government Amendment Act 1992 is hereby amended by inserting, after Note 3, the following note:

“Note 4: The Western Bay of Plenty Constituency includes Mayor Island and Motiti Island.”

EXPLANATORY NOTE

The proposed new *clauses 80 to 86* clarify amendments made by the Local Government Amendment Act 1992.

The proposed new *clauses 87 and 88* correct errors in the amendments made by that Act.