

# **Local Government (Auckland Council) (Transport Governance) Amendment Bill**

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Submission of the New Zealand Law Society Te Kāhui  
Ture o Aotearoa

6 November 2025

## 1 Introduction

- 1.1 The New Zealand Law Society Te Kāhui Ture o Aotearoa (**Law Society**) welcomes the opportunity to comment on the Local Government (Auckland Council) (Transport Governance) Amendment Bill (**Bill**), which seeks to amend the Local Government (Auckland Council) Act 2009 (**Act**).
- 1.2 This submission has been prepared with input from the Law Society's Employment Law, Human Rights & Privacy, and Public Law Committees.<sup>1</sup> It makes recommendations to improve transparency around the exercise of public functions, and to improve the clarity and workability of the Bill.
- 1.3 The Law Society does not wish to be heard in relation to this submission, but is available to answer any questions, if that would assist the Select Committee.

## 2 Removal of Auckland Regional Transport Committee members (new section 39A)

- 2.1 New section 39A in clause 14 of the Bill empowers the mayor of Auckland (**Mayor**) and the Minister of Transport (**Minister**) to remove members (including the chairperson) of the Auckland Regional Transport Committee (**ARTC**) from office "at any time and entirely at their discretion".
- 2.2 It is unclear why the Minister and the Mayor are to be given such broad discretionary powers to remove members, with no prescribed criteria or procedures for their removal (for example, a requirement to give reasons for the removal, or a requirement to give an affected member the opportunity to respond to any allegations leading to their removal).
- 2.3 We suggest amending new section 39A to include some safeguards against the arbitrary exercise of this power to remove ARTC members, and to increase transparency around the exercise of this power. At the very least, these provisions could be revised to state that the Minister and Mayor may remove a member "for any reason that, in their opinion, justifies the removal" of that member.<sup>2</sup>

## 3 General duties of ARTC members (new section 40)

- 3.1 New sections 40(b) to (d) in clause 14 of the Bill set out certain obligations ARTC members are expected to meet "when acting as a member". The phrase "when acting as a member" does not need to be included in these subsections, as this is already apparent from the introductory words in clause 40, which state that "a member of the ARTC must" meet the obligations in subsections (a) to (d). Removing this phrase from subsections (b) to (d) would also align the wording of those subsections with the wording of subsection (a).

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<sup>1</sup> More about these Committees can be found on the Law Society's website: [www.lawsociety.org.nz/professional-practice/law-reform-and-advocacy/law-reform-committees/](http://www.lawsociety.org.nz/professional-practice/law-reform-and-advocacy/law-reform-committees/).

<sup>2</sup> This is similar to the drafting of s 37 of the Crown Entities Act 2004, which provides for the removal of members of autonomous Crown entities.

## 4 Meetings of the ARTC (new section 41)

- 4.1 New section 41 in clause 14 of the Bill states that the ARTC may, in its discretion, hold meetings in private or in public. To improve transparency, and public oversight and engagement with the ARTC's functions (which include maintaining a long-term strategic direction for land transport, and preparing and delivering a 30-year transport plan), we query whether the Bill should be amended to:
- (a) encourage or require a minimum number of public meetings to be held over a specific period;<sup>3</sup> or
  - (b) alternatively, set out the circumstances in which public meetings might be preferable.
- 4.2 Such a change would align the Bill with the purposes of the Local Government Official Information and Meetings Act 1987 to make information held by local authorities more freely available to the public, and to provide for public admission to local authority meetings.
- 4.3 We encourage the Select Committee to seek advice from officials on this point (and it may be that new section 41E, which requires minutes of decisions to be made available to the public, already offers an appropriate level of transparency and public oversight).

## 5 Support for the ARTC

- 5.1 The Bill does not clarify what support will be available to the ARTC when carrying out its functions and duties. For example, is it intended that the Auckland Council will provide secretarial support to the ARTC, or would the ARTC be expected to organise and pay for its support staff and resources? If it is the latter, what funding would be available to the ARTC for this purpose? It could be helpful to clarify these matters in the Bill to ensure the ARTC is adequately resourced to carry out its functions.

## 6 Consultation on 30-year transport plan

- 6.1 New section 42D in clause 14 sets out how the ARTC must undertake consultation on a 30-year transport plan for Auckland (**30-year plan**). We have identified some concerns relating to this consultation process.

*A more robust consultation process may be appropriate*

- 6.2 While the consultation requirements in new section 42D(2) are modelled on the principles of consultation in sections 82(1) and (2) of the Local Government Act 2002 (**LGA**), they do not include the option to follow the special consultative procedure in section 83 of the LGA that is available for consultations on regional land transport plans.<sup>4</sup>
- 6.3 It is unclear why the Bill does not offer a similar option for consultation on the 30-year plan. The purpose of these 30-year plans to 'provide direction for the development of

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<sup>3</sup> Other provisions in the Act prescribe similar requirements in relation to meetings held by council-controlled organisations of the Auckland Council. For example, s 96 of the Act provides that the Board of each council-controlled organisation must nominate two annual meetings to be open to members of the public.

<sup>4</sup> Under section 18 of the Land Transport Management Act 2003.

land transport in Auckland for the following 30 years'.<sup>5</sup> This suggests these 30-year plans are likely to have a significant impact on Auckland land transport, and would benefit from a more robust consultation process similar to the special consultative procedure in section 83 of the LGA.

- 6.4 We therefore recommend amending the Bill to give the ARTC the option to follow the special consultative procedure in section 83 of the LGA (or a similarly robust process).

#### *Public access to 30-year plan*

- 6.5 New section 42D(2)(a) provides that a proposed 30-year plan “may be made available to the public in any manner and format that the ARTC considers appropriate”. We assume the intention of this provision is to *require* the ARTC to make proposed plans available to the public in a manner and format decided by the ARTC. However, the current drafting suggests the ARTC has the *discretion* to decide whether to make a proposed plan available to the public.

- 6.6 We also note that, while subsection (a) seems similar to section 82(1)(a) of the LGA, the drafting of this subsection of the Bill empowers the ARTC to determine the manner and format that is appropriate to the preferences and needs of those who might be affected by, or have an interest in, the 30-year plan. In contrast, the LGA requires local authorities to provide *reasonable access* to relevant information in a manner and format that is appropriate to the preferences and needs of those persons.

- 6.7 If the intention is for subsection (a) to replicate the requirement in section 82(1)(a) of the LGA, we recommend redrafting this provision as follows:

the proposed plan must be made available to the public, and those who will or may be affected by, or have an interest in, the plan should be provided by the ARTC with reasonable access to the plan in a manner and format that is appropriate to the preferences and needs of those persons:

#### *7 Transfer of Auckland Transport employees (new clause 21 of Schedule 1AA)*

- 7.1 Schedule 1 of the Bill inserts new clause 21 of Schedule 1AA of the Act. This new clause relates to the transfer of employees from Auckland Transport to either the Auckland Council or the new transport council-controlled organisation for Auckland (**transport CCO**).

- 7.2 New clause 21(2) requires the transport CCO to provide ‘employee information’ to the Auckland Council to enable the transition director to determine ‘to whom offers of employment should be made’. Clause 21(3) clarifies that ‘employee information’ includes, without limitation, records relating to the employee’s performance as an employee of the transport CCO (subclause (c)), as well as records relating to any disciplinary or misconduct matters against the employee (subclause (d)).

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<sup>5</sup> New s 42 in cl 14.

- 7.3 While it may be reasonable for legislation to permit the sharing of employee information ahead of their potential transfer to a new organisation,<sup>6</sup> it is unclear why such information sharing provisions need to include information about an ‘employee’s performance’ or about disciplinary or misconduct matters.
- 7.4 The precise meaning and scope of the term ‘employee’s performance’ is also unclear – for example, does the Bill require the provision of *all* existing information about an employee’s performance during their employment at Auckland Transport (which could include dated or incomplete information)? Records relating to the ‘employee’s performance’ could also include information that is not known to the employee, or information relating to complaints or allegations the employee has not had a chance to respond to.
- 7.5 We therefore query whether it is appropriate for this legislation to enable the Auckland Council to determine whether to make offers of employment on the basis of such information, without the employee’s consent.
- 7.6 The Select Committee should seek advice from officials about the intended purpose and scope of new clause 21(2), and carefully consider whether the types of ‘employee information’ identified in subclauses (3)(c) and (d) are necessary and appropriate as drafted for the purpose of subclause (2), and against the purpose of Privacy Act 2020 to promote and protect individual privacy.



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**Vice-President**

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<sup>6</sup> We note, for example, that new cl 138 of the Education and Training (Vocational Education and Training System) Amendment Bill 150-3 (2025) (as reported from the committee of the whole House) permits the sharing of the employee’s employment agreement, remuneration, accrued leave entitlements, superannuation scheme benefits, any service-related benefits and entitlements, and any employment policies that are part of the employee’s conditions of employment.