



Cabinet

CAB Min (09) 39/6A

Copy No: 3/

Minute of Decision

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Local Government (Auckland Law Reform) Bill: Planning, Reporting, Rates and Local Boards

Portfolio: Local Government

On 2 November 2009, following reference from the Cabinet Committee on Implementation of Auckland Governance Reforms (AGR), Cabinet:

Background

- 1 noted that the Local Government (Auckland Law Reform) Bill (the Bill) is planned for introduction in late 2009, and has a category 4 priority (to proceed to a select committee in 2009) on the 2009 Legislation Programme;

Interim planning and reporting arrangements

- 2 noted that the Local Government Act 2002 (the LGA) requires all local authorities to have a long-term council community plan (LTCCP) at all times, and to prepare and adopt an annual plan for each financial year;
- 3 noted that the eight existing Auckland local authorities have 2009/10 LTCCPs approved by the Auckland Transition Agency (ATA);
- 4 noted that the Local Government (Tāmaki Makarau Reorganisation) Act 2009:
 - 4.1 limits the scope of existing local authority 2010/11 annual plans to the four months until their dissolution;
 - 4.2 authorises a single "annual report" for each existing local authority covering the 16 months from 1 July 2009 until their dissolution on 31 October 2010;
 - 4.3 requires the ATA to develop an interim planning document for the first eight months of the Auckland Council, which must (at least) serve as an annual plan for the Auckland Council for that period;
- 5 agreed that the standard LGA planning and reporting regime apply to the Auckland Council from the year commencing 1 July 2012, for which a LTCCP complying with the Act is required;
- 6 agreed that a single 16 month "annual report" also be authorised for existing council-controlled organisations (CCOs) that are to be disestablished on 31 October 2010;

- 7 **noted** that some modifications to standard reporting requirements may be necessary to reflect transition circumstances for the annual report of existing local authorities (referred to in paragraph 4.2 above) and CCOs (referred to in paragraph 6 above), and for the 2010/11 and 2011/12 annual reports of the Auckland Council;
- 8 **agreed** that the Bill contain provisions to modify the application of LGA reporting requirements to the reports referred to above, while preserving the accountability and transparency objectives underlying annual reporting requirements;
- 9 **agreed** that the Bill include provisions to amend the Local Government (Tamaki Makaurau Reorganisation) Act 2009 to provide that the planning document required under section 19A of that Act:
- 9.1 must serve as the LTCCP for the Auckland Council to June 2012, as well as the annual plan to June 2011;
- 9.2 must include predicted (prospective) activity and financial information to 2019, based on the information in the eight local authority LTCCPs, reworked to reflect the anticipated impact of the reorganisation, the standardisation of policies and assumptions, and the local activities requirements of the Local Government (Auckland Council) Act 2009;
- 10 **agreed** that the Auckland Council 2011/12 annual plan be subject to standard annual plan requirements, except that the document referred to in paragraph 9 above will stand in place of an LTCCP and could be amended by the Auckland Council in conjunction with the annual plan, using the LTCCP amendment requirements of the LGA;

Interim rating by Auckland Council

- 11 **noted** that the Local Government (Tamaki Makaurau Reorganisation) Act 2009 requires existing local authorities to set their 2010/11 rates and fees to cover the full 12 month period;
- 12 **noted** that Watercare will start charging all of its water and wastewater services customers directly from 1 July 2011, so that ratepayers who have previously paid for these services through rates will no longer do so;
- 13 **agreed** that the Bill include provisions to:
- 13.1 authorise the Auckland Council to collect rates in 2010/11 as set by existing local authorities before their dissolution, and to require revenue collected from water supply and wastewater rates to be transferred to Watercare;
- 13.2 require the Auckland Council to assess 2011/12 rates for each property as a uniform percentage variation from the 2010/11 rates on that property, less any 2010/11 water and wastewater rates assessed;
- 13.3 provide that existing local authority rates remission and rates postponement policies remain in force, within the former districts, until 30 June 2012 unless revoked or replaced by the Auckland Council;
- 13.4 cancel the 2010 revaluations scheduled for Rodney District and Waitakere City, and allow the values to stand for longer than the three year period currently prescribed in the Rating Valuations Act 1998;

- 13.5 authorise the governing body of the Auckland Council to decline a targeted rate proposal from a local board for 2011/12 where it would be impractical or unreasonably expensive to implement it in that year;

Development contributions

- 14 **noted** that all seven territorial authorities in Auckland make use of development contributions (applied differently and set at different levels);
- 15 **noted** that development contributions represent a significant source of revenue for infrastructure expenditure across Auckland, and must be maintained until the Auckland Council is able to adopt its own development contributions policy in 2012;
- 16 **agreed** that the Bill include provisions to:
- 16.1 authorise the Auckland Council to collect development contributions under each existing territorial authority development contributions policy, in the city or district to which it applies and for the purposes identified in each policy, subject to existing reimbursement requirements where relevant expenditure does not proceed;
- 16.2 clarify that this will initially include development contributions in respect of water and wastewater infrastructure, and transport projects for which responsibility has transferred to Watercare or the Regional Transport Agency, subject to the requirement that the revenue be transferred to the relevant agency in relation to expenditure on the projects for which it was collected;
- 17 **noted** that the provisions proposed in paragraph 16 above, and the ongoing issue of development contributions for capital expenditure by entities other than the territorial authority, require further work, and that these issues will be referred to Cabinet for policy decisions before the Bill is introduced;

Other (non-regulatory) fees and charges

- 18 **agreed** that the Bill include provisions to preserve non-regulatory fees and charges set by existing local authorities until such time as they are changed by the Auckland Council or a local board;

Borrowing by Auckland Council during interim period

- 19 **agreed** that the Bill include provisions to:
- 19.1 require the ATA to include, in the planning document required under section 19A of the Local Government (Tamaki Makaurau Reorganisation) Act 2009, a liability management policy for the Auckland Council in accordance with the LGA;
- 19.2 clarify that the interim rating arrangements provided do not detract from, or otherwise affect, the ability of the Auckland Council to charge rates or use rates revenue as security for loans in the normal manner;
- 20 **noted** that the ATA has proposed that the Auckland Council be exempted from the prohibition on borrowing in foreign currency in section 113 of the LGA, and that recommendations on this issue will be referred to Cabinet for policy decisions before the Bill is introduced;

New Auckland rating system

- 21 noted that, in order to implement a single integrated Auckland Council rating policy from 1 July 2012, the Council will need a single rating information database including every property within Auckland, based on a valuation roll prepared under the Rating Valuations Act 1998, following a common valuation system and assessed at a common date;
- 22 agreed that the Bill include provisions to:
- 22.1 require the interim chief executive of the Auckland Council (or the ATA if no appointment has been made) to confirm arrangements, including entering into contracts as appropriate, by 1 September 2010, for the provision of Auckland Council valuation services, and for the preparation of an Auckland valuation roll as at 1 September 2011;
- 22.2 prescribe that the valuation system for the initial valuation roll referred to in paragraph 22.1 above be capital value;

Managing the impact of a new Auckland Council rating system

- 23 noted that the current diversity of Auckland local authority rating systems and policies means that any move to a single rating system and approach may generate significant changes in rating liability for individual ratepayers, irrespective of whether the Auckland Council rates requirements are lower, higher, or similar to the combined requirements of existing local authorities;
- 24 agreed that the impacts of introducing the new rating system be managed to protect ratepayers (particularly those on low and fixed incomes, and small businesses) from sudden and significant increases in rates liability;
- 25 agreed that the Bill include mechanisms to enable the Auckland Council to spread the impact of significant changes in rates liability (both increases and decreases) over a period of up to three years;

Local boards

- 26 agreed that the Bill include a provision to clarify that, within the scope of its powers and the regional policies determined by the governing body, a local board is able to propose a variety of mechanisms to generate additional revenue to fund discretionary activities/initiatives in its area;
- 27 agreed that the Bill provide for a dispute resolution process for certain disputes between the governing body and local boards, through a process of binding resolution by the Local Government Commission or one of its Commissioners (including the process required to initiate a dispute and the apportionment of costs);
- 28 agreed that the Bill set out the provisions of the LGA and Local Electoral Act 2001 that will apply to local boards and their members, including:
- 28.1 encouraging co-operation between local boards across any aspect of their role/responsibilities;

- 28.2 indemnity for a local board member (section 43 of the LGA) if the member was acting in good faith and undertaking their responsibilities as a member of the local authority;
- 28.3 specifying that any member who contravenes certain provisions of Schedule 7 of the Act will be liable for penalties;
- 28.4 applying penalties for offences to local board members (section 242 of the LGA);
- 28.5 reference to local boards as a core element of the Auckland Council governance structure in the local governance statement (section 40 of the LGA);
- 28.6 the involvement of local boards by the governing body of the Auckland Council before CCO decisions are made;
- 28.7 apply the voting system from clause 25 of Schedule 7 to the election of the chairs of local boards;
- 28.8 clarify that the intervention powers of the Minister of Local Government for the Auckland Council (Part 10 of the LGA) will apply to both local boards and the governing body of the Auckland Council;
- 28.9 extend the non-resident ratepayer franchise provisions in the Local Electoral Act 2001 to apply to local board elections;
- 29 **agreed** that the relevant provisions of the Ombudsmen Act 1975, the Local Authorities (Members Interest) Act 1968, and the Local Government Official Information and Meetings Act 1987 should apply to local boards and their members;
- 30 **agreed** that the Department of Internal Affairs work with other agencies and the Parliamentary Counsel Office to identify and include provisions to ensure that appropriate links are made between local boards and relevant legislation;
- 31 **noted** that on 27 August 2009, AGR:
- 31.1 noted that a process is required for the future alteration of local board boundaries;
- 31.2 agreed that the representation review (under the Local Electoral Act 2001) by the Auckland Council include a review of local board boundaries;
- 31.3 agreed that the Auckland Council be able only to determine minor changes to a local board boundary (for example, aligning boundaries to match its ward boundaries) as part of the representation review, where there are no appeals;
- [AGR Min (09) 8/1 (paragraphs 14, 15.1 and 19)]
- 32 **noted** that given the strengthened powers and functions of local boards, even minor local board boundary adjustments could have significant budgetary and functional implications;
- 33 **rescinded** the decisions referred to in paragraph 31 above, to ensure that the modification of local board boundaries will only be considered as part of a local authority reorganisation;

Legislation and publicity

- 34 agreed that the proposals in the paper under AGR (09) 23 inform the development of the Bill planned for introduction in late 2009;
- 35 agreed that the Minister of Local Government advise the ATA of Cabinet's decisions in relation to the paper under AGR (09) 23.

Rebecca Kitteridge

Secretary of the Cabinet

Reference: CAB (09) 637; AGR Min (09) 12/2

Secretary's note: This minute supersedes AGR Min (09) 12/2. Cabinet rescinded an earlier Cabinet decision as recommended by AGR (see paragraph 33).

Proactively Released by the Minister of Local Government