



Cabinet

CAB Min (09) 38/9

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Minute of Decision

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Report of the Cabinet Committee on Implementation of Auckland Governance Reforms: Period Ended 23 October 2009

On 27 October 2009, Cabinet made the following decisions on the work of the Cabinet Committee on Implementation of Auckland Governance Reforms for the period ended 23 October 2009.

- | | | |
|-------------------|--|--|
| AGR Min (09) 11/1 | Local Government (Auckland Law Reform)
Bill: Interim and Transitional Provisions
Portfolio: Local Government | CONFIRMED |
| AGR Min (09) 11/2 | Local Government (Auckland Law Reform)
Bill: Local, Private and Provincial Acts: Transition Issues
Portfolio: Local Government | CONFIRMED |
| AGR Min (09) 11/3 | Local Government (Auckland Law Reform)
Bill: Entities, Assets and Liabilities, Taxation and Staff
Portfolio: Local Government | Separate minute: see
CAB Min (09) 38/9A |

Rebecca Kittendge

Secretary of the Cabinet

Reference: CAB (09) 625

Distribution: (see over)



Cabinet Committee on Implementation of Auckland Governance Reforms

AGR Min (09) 11/1

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Minute of Decision

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Local Government (Auckland Law Reform) Bill: Interim and Transitional Provisions

Portfolio: Local Government

On 21 October 2009, the Cabinet Committee on Implementation of Auckland Governance Reforms (AGR):

Background

1 noted that:

1.1 on 6 April 2009, Cabinet agreed that the new Auckland governance structure should be a unitary Auckland Council at the regional level, together with local boards at the local (2nd tier) level [Cab Min (09) 12/7];

1.2 on 15 October 2009, AGR:

1.2.1 noted that the Local Government (Auckland Law Reform) Bill (the Bill) is planned for introduction in late 2009;

1.2.2 agreed to the criteria to be used for assessing the transition provisions to be included in the Bill;

[AGR Min (09) 10/2]

Local Government legislation

Bylaws

2 agreed that bylaws in existence at the abolition of the existing councils be transferred to the Auckland Council;

3 agreed that the Auckland Council be required to review all of its inherited bylaws within five years, and confirm, amend or revoke each bylaw;

4 agreed that transport-specific bylaws (for example, bylaws relating to parking and bus lanes) in existence at the abolition of the existing councils be transferred to the Regional Transport Authority;

Licensing and policies

- 5 **noted** that each Auckland local authority has different policies in relation to dog control, liquor licensing, food safety, use of public spaces (events permits), signs, and environmental protection, amongst other things;
- 6 **agreed** that the policies of the existing Auckland local authorities become the policies of the Auckland Council and remain in effect for a maximum of five years, in each existing local authority area, until the Auckland Council establishes new policies;

Enforcement of bylaws and regulations

- 7 **noted** that local authorities are responsible for appointing enforcement officers to enforce bylaws and certain regulations;
- 8 **noted** that a local authority must issue warrants to its enforcement officers specifying their delegated responsibilities and powers, and the infringement offences that they are appointed to enforce;
- 9 **agreed** that all statutory officers warranted by existing Auckland local authorities for the purpose of enforcing statutory or regulatory requirements, and employed or contracted by the new Auckland Council, may exercise these warrants for the new Auckland Council until such time as the warrants are confirmed, amended, or revoked by the Council;
- 10 **agreed** that all statutory officers warranted by existing Auckland local authorities for the purpose of enforcing transport statutory or regulatory requirements, and employed or contracted by the Regional Transport Authority, may exercise these warrants for the Regional Transport Authority until such time as the warrants are confirmed, amended, or revoked by the Authority;

Interim fees and charges

- 11 **noted** that the Auckland Council will need to have in place from 1 November 2010 a schedule of fees and charges for consents (resource management and building control), animal control, other regulatory matters and licensing;
- 12 **noted** that existing local authorities are working towards having fees and charges standardised before 1 November 2010;
- 13 **agreed** that the Bill contain an Order in Council mechanism to establish fees and charges not set by 1 November 2010;

Standing orders

- 14 **agreed** that standing orders for the Auckland Council be established by Order in Council and apply until such time as the Auckland Council adopts its own standing orders;

Delegations

- 15 **noted** that Auckland Council staff will need to make decisions and take actions on behalf of the Auckland Council from 1 November 2010;
- 16 **agreed** that the incoming Chief Executive have all the powers that can be delegated to him or her under clause 32 of Schedule 7 of the Local Government Act 2002, until such time as the Auckland Council is able to confirm a new schedule of delegations;

Waitakere Licensing Trust and Portage Licensing Trust

- 17 **agreed** that the Bill contain provision for the Waitakere Licensing Trust and Portage Licensing Trust elections to be held using the First Past the Post voting system;

Resource Management Act 1991**Transfer of responsibilities and duties under the Resource Management Act 1991**

- 18 **agreed** that the Bill clarify that the Auckland Council shall have the duties and functions of both a territorial authority and a regional council under the Resource Management Act 1991 (RMA);
- 19 **agreed** that transitional provisions in the Bill provide for the transfer of duties and functions of both a territorial authority and a regional council under the RMA, from the existing territorial authorities and regional council in the Auckland region to the Auckland Council;
- 20 **agreed** that transitional provisions in the Bill provide for continuity and the smooth transition of existing local authority responsibilities and liabilities under the RMA to the Auckland Council, including, but not limited to:
- 20.1 continuity in resource consent processing (including hearings in progress or due to be held), certifying compliance, plan change processing, enforcement of conditions on existing consents, and the resolution of appeals;
- 20.2 clarity over the legal status of proposed plans and plan changes/variations under development, and of current appeals on resource consents, operative plans and plan changes to the Environment Court and existing appeals to the High Court;
- 21 **noted** that the Auckland Transition Agency oversight role includes making provision for the continuation of essential planning services throughout the transition period for the establishment of the Auckland Council;

Auckland Council's powers and functions delegations policy

- 22 **noted** that a delegations policy for exercising the Auckland Council's powers and functions under the RMA will need to be developed before 1 November 2010;

Meeting National Policy Statement requirements over the transition period

- 23 **noted** that the existing local authorities are required to continue work in the transition period to enable the Auckland Council to incorporate objectives and policies needed to give effect to the National Policy Statement on Electricity Transmission within its policy statement and plans;

Transitioning the plan development process

- 24 **agreed** that the Bill clarify that work undertaken by the existing Auckland local authorities to support the development of a new Regional Policy Statement, regional plan(s) and district plan for the Auckland Council will be deemed to meet their obligations to review existing plan provisions under section 79 of the RMA;

The treatment of designations over the transition period

- 25 agreed that transitional provisions be included in the Bill to extend the life of existing Auckland designations until such time as they can be renewed as part of the new Auckland Council district plan;

Waste Minimisation Act 2008

- 26 agreed that the Bill make provision for:
- 26.1 the existing waste management plans of the current territorial authorities of the Auckland Region adopted under Part 31 of the Local Government Act 1974 to collectively become the current waste management plan of the Auckland Council under the Waste Minimisation Act 2008, on the establishment of the Auckland Council on 1 November 2010;
 - 26.2 the review of the waste management plan referred to in paragraph 26.1 above by 1 July 2012 in accordance with the Waste Minimisation Act;
 - 26.3 an interim waste levy funding calculation, to be used for the distribution of the waste levy fund to the Auckland Council, based on the population of the new Auckland Council boundary, as defined by the Local Government Commission, until such time as the next census in 2011;
 - 26.4 the existing waste bylaws of the local authorities of the Auckland region to remain in place in the existing separate council geographic areas, until such time as a new Auckland Council waste bylaw is created;
- 27 agreed that the Bill make provision for amendments to be made to the Local Government (Tamaki Makaurau Reorganisation) Act 2009 for the functions and duties of the Auckland Transition Agency relating to waste management to include:
- 27.1 the oversight of preparation of detailed proposals, including possible contracts, leases and other arrangements, for the long-term management and operation of services, and other issues for waste management and minimisation;
 - 27.2 presentation of the detailed proposals referred to in paragraph 27.1 above, to the Auckland Council for approval within 6 months of the establishment of the Auckland Council;

Building Act 2004

- 28 agreed that the Auckland Council be deemed a building consent authority for a 12 month period after 1 November 2010, in order to allow time for it to become registered as a building consent authority;

Civil defence and emergency management

- 29 noted that the Auckland Civil Defence Emergency Management Group is the political governance body for civil defence and emergency management within the Auckland region, and that this will cease to exist on 1 November 2010;

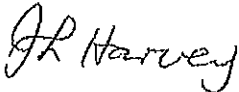
- 30 noted that executive governance for the Civil Defence Emergency Management Group within the Auckland region is currently undertaken by a Co-ordinating Executive Group, which includes the chief executive of each local authority or their representative, and representatives from other emergency sector organisations;
- 31 agreed that the Bill clarify that the Co-ordinating Executive Group, Group Controllers, local controllers and other appointments, delegations, approvals and Group plans made by the existing Civil Defence Emergency Management Group continue beyond 31 October 2010, as if the Civil Defence Emergency Management Group was not dissolved;

Forest and Rural Fires Act 1977

- 32 noted that a Principal Rural Fire Officer will need to be appointed by the Auckland Council after 1 November 2010, for the purposes of its fire control responsibilities, unless a Rural Fire District is established across the Auckland region before that date;
- 33 agreed that, until an appointment is made by the Auckland Council or for the purposes of a Rural Fire District, the existing Principal Rural Fire Officers and Rural Fire Officers continue to hold their appointments, perform their functions within the areas in respect of which they were appointed, and be available for deployment across the Auckland region, while they continue to be employed or contracted by the Auckland Council;

Legislation and publicity

- 34 agreed that the Department of Internal Affairs work with Parliamentary Counsel Office to identify other minor and consequential amendments to relevant legislation for inclusion in the Bill;
- 35 agreed that the proposals in the paper under AGR (09) 19 form part of the proposed Local Government (Auckland Law Reform) Bill planned for introduction in November 2009;
- 36 agreed that communication of government decisions in relation to the content of the Bill be co-ordinated by the office of the Minister of Local Government, with the Offices of the Prime Minister, the Associate Minister of Local Government, Minister of Transport, and Minister for the Environment.


Janine Harvey
Committee Secretary