



Cabinet

CAB Min (09) 39/26

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Minute of Decision

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Options for Maori Participation Models for Auckland Governance

Portfolio: Local Government / Maori Affairs

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

Background

1 noted that on 24 August 2009, Cabinet:

1.1 noted the following options for providing for mana whenua and Māori participation in the governance of Auckland:

1.1.1 Option 1 – use existing provisions under the Local Government Act 2002 and the Resource Management Act 1991;

1.1.2 Option 2 – provide in legislation for the establishment of a statutory board;

1.1.3 Option 3 – provide in legislation for the establishment of a Council committee;

1.2 invited the Minister of Local Government and the Minister of Māori Affairs to report back to AGR as soon as practicable on the details and implementation of Options 2 and 3;

[CAB Min (09) 30/9]

2 noted the contents of the paper attached to CAB (09) 656 on the current legislative framework and the details of Options 2 and 3;

Independent Statutory Board

3 agreed to provide in legislation for the establishment of an Independent Statutory Board, as follows:

3.1 the purpose of the Statutory Board is to promote social, economic, environmental, and cultural issues of significance for the mana whenua and Māori of Auckland to assist the Auckland Council in its decision making, and in carrying out existing legislative requirements;

- 3.2 membership of the Statutory Board will comprise up to 9 members, being a maximum of 7 mandated representatives of recognised mana whenua groups within the Auckland Council boundaries that wish to participate, and two taura here representatives appointed by the mana whenua Board representatives;
- 3.3 the functions and roles of the Statutory Board are to:
- 3.3.1 develop a schedule of matters of significance to mana whenua and Māori, determine a priority for each issue, and regularly review that schedule;
 - 3.3.2 work with the Auckland Council on the design and execution of formal statutory instruments and processes that relate to seeking the input of mana whenua and Māori;
 - 3.3.3 advise the Auckland Council on matters affecting mana whenua and Māori;
 - 3.3.4 appoint person(s) to sit on the Auckland Council Committee(s), in particular those that deal with the management and stewardship of natural and physical resources;
 - 3.3.5 where delegated by the Auckland Council, to make decisions, or otherwise undertake particular functions or duties;
 - 3.3.6 negotiate an agreement with the Auckland Council for the work the Board will do and the level of service to be provided by the Auckland Council to the Statutory Board;
- 3.4 the Auckland Council is required to:
- 3.4.1 consult with the Statutory Board on matters affecting mana whenua and Māori;
 - 3.4.2 work with the Statutory Board on the design and execution of formal statutory instruments and processes relating to seeking the input of mana whenua and Māori into those instruments;
 - 3.4.3 take into account the advice of the Statutory Board in relation to ensuring that the input of mana whenua and Māori are reflected in strategy, policies, or plans;
 - 3.4.4 provide the Statutory Board with information on the future plans and business of the Council, and the agenda of forthcoming meetings and upcoming business, for use by the Statutory Board in identifying business of relevance to the Statutory Board;
 - 3.4.5 take into account the advice the Statutory Board gives on other matters;
 - 3.4.6 negotiate an agreement with the Statutory Board for the work the Board will do and the level of service to be provided by the Auckland Council to the Statutory Board;

Role of the Minister of Māori Affairs

- 4 agreed, that the Minister of Māori Affairs would:
- 4.1 have statutory responsibility for ensuring that the representatives of recognised mana whenua groups put forward to participate on the Statutory Board have been formally mandated by those recognised mana whenua groups;
 - 4.2 as a means of last resort, have a statutory responsibility to make appointments (to mana whenua and/or taura here positions) if agreement by mana whenua representatives was not possible, so as to avoid creating issues for the business of the Auckland Council;
 - 4.3 keep the Minister of Local Government informed of the matters referred to in paragraphs 4.1 and 4.2 above;
- 5 noted that the legislation will make provision for Board quorum, time for appointments, and dispute resolution processes to be utilised before the Minister of Māori Affairs' power of appointment could be invoked;

Consistency with other legislation

- 6 noted that the Statutory Board option for mana whenua and Māori participation is consistent with the desired outcomes of the Local Government Act 2002 and the Resource Management Act 1991;
- 7 agreed that the Auckland Council and its governing body not be limited from using other mechanisms to engage more broadly with Māori as provided for in the Local Government Act 2002, the Resource Management Act 1991, and the Local Government (Auckland Council) Act 2009;

Legislative implications

- 8 agreed that the legislative changes required to give effect to the proposal be included in the Local Government (Auckland Law Reform) Bill, planned for introduction in early December 2009;
- 9 noted that the Statutory Board option will not alter the current legislative framework set out under the Local Government Act 2002 or the Resource Management Act 1991;
- 10 invited the Minister of Māori Affairs, in consultation with the Minister of Local Government, to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above decisions;
- 11 noted that a regulatory impact statement has not been prepared in relation to the paper under CAB (09) 656 because of the machinery nature of the recommendations;

Publicity

- 12 agreed that a plan for communicating the above decisions be developed by the Minister of Local Government and the Minister of Māori Affairs, in consultation with the Prime Minister.

Rebecca Kitteridge
Secretary of the Cabinet

Reference: CAB (09) 656; AGR Min (09) 12/3

Proactively Released by the Minister of Local Government