

OFFICE OF THE MINISTER OF LOCAL GOVERNMENT

Chair
Cabinet

LOCAL GOVERNMENT (AUCKLAND COUNCIL) BILL: APPROVAL FOR INTRODUCTION

Proposal

1. This paper seeks approval to introduce the Local Government (Auckland Council) Bill into the House of Representatives. This paper accompanies the paper entitled *Local Government (Auckland Reorganisation) Bill: Approval for Introduction* that seeks approval to introduce a second Bill focussing on transitional mechanisms for the new Auckland governance arrangements.

Policy

Background

2. On 6 April 2009, in the context of decisions in response to the Royal Commission on Auckland Governance, Cabinet agreed to the high level structure of a new Auckland Council. Cabinet agreed to the establishment of:
 - an Auckland Council at the regional level comprising of 20 councillors, with 8 elected at large and 12 elected in single member wards; and
 - 20-30 second tier local boards at the local level [CAB Min (09) 12/7 refers].
3. Cabinet agreed to the development of legislative changes necessary to implement changes to Auckland's governance arrangements [CAB Min (09) 12/7 refers]. Cabinet also agreed to a timeframe that seeks to have the new core arrangements significantly completed by October 2010, in time for the next local government elections [CAB Min (09) 12/8 refers].
4. On 4 May 2009, Cabinet confirmed the detailed policy content of the proposed urgent legislation to implement the government's decisions on Auckland governance. This included the introduction of three Bills – two introduced in May 2009 and one later in 2009 [CAB Min (09) 15/11 refers].
5. The first Bill, entitled Local Government (Auckland Reorganisation) Bill, provides for an Auckland Council, sets up a transition agency, and looks ahead to the transfer of responsibilities from existing councils. The accompanying paper seeks agreement to introduce this Bill.

Policy proposals

6. This Bill gives effect to the agreed policy proposals on Auckland's governance structure by:
 - providing the high level framework for the structure of the Auckland Council – 8 members elected at large and 12 members from wards, and in the order of 20-30 local boards including their high level functions;
 - directing and providing powers for the Local Government Commission (LGC) to determine the boundaries of the wards of the Auckland Council and the local boards, and the number of local boards and their membership; and
 - providing powers and functions for the LGC to develop a reorganisation scheme for the partition of the Franklin District and the Franklin District Council between the Auckland Council and the Waikato District Council.
7. The Bill will also insert provisions into the Local Government (Auckland Reorganisation) Act 2009. These provisions provide for Watercare to lead the integration of water and wastewater services under the oversight of the Auckland Transition Agency. The Clerk's Office has confirmed that this Bill is not an omnibus Bill and as such does not require the agreement of the Business Committee to be introduced.
8. I intend this Bill to proceed through a compressed Select Committee process to enable an opportunity for people to submit their views on the government's proposals. The Bill would need to be enacted by 24 September 2009 to enable boundaries to be set in time for the 2010 local government elections.
9. Decisions on the structure of the Auckland Council are likely to be contentious. These include the election of 8 councillors at large, the number and nature of local boards, and the lack of separate Māori representation (as recommended by the Royal Commission). The setting of ward and local board boundaries is also likely to be contentious. These issues are considered in policy papers related to the Bill [CAB (09) 160 and CAB (09) 161 refer] and will be managed by communications strategies.
10. In the coming weeks and months, the Associate Minister of Local Government and I will be discussing the roles and functions of local boards with some Auckland community groups. As a result of this consultation process, changes to the roles and functions of local boards may be made during the Select Committee process.
11. There are no outstanding policy issues in relation to the content of the Bill. Issues concerning the detailed legislative framework for the new governance structure will be addressed in a third Bill, which is expected to be introduced later this year.
12. I seek approval for this Bill to be added to the 2009 Legislation Programme with a category 2 priority (must be passed in 2009).

Regulatory impact analysis

13. Due to time constraints, a regulatory impact statement was not prepared at the time Cabinet approval of the policy papers relating to the Bill were sought [CAB (09) 160 and CAB (09) 161 refer]. A regulatory impact statement is included in the Bill.

Compliance

14. The Bill complies with the:
 - principles of the Treaty of Waitangi;
 - rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - principles and guidelines set out in the Privacy Act 1993;
 - relevant international standards and obligations; and
 - Legislation Advisory Committee Guidelines: Guidelines on Process and Content of Legislation.

Consultation

15. This paper was prepared by the Department of Internal Affairs.
16. The following departments were consulted on the policy papers related to the Bill [CAB (09) 160 and CAB (09) 161 refer]: the Ministries of Economic Development, Environment, Transport, Social Development, the Treasury, the Department of Building and Housing, and Te Puni Kōkiri.
17. The following departments were consulted on the draft Bill: the Ministries of Economic Development, Environment, Transport, the Treasury, and the Department of Building and Housing.
18. The Ministry of Justice has been consulted on the Bill's compliance with the Bill of Rights and Human Rights Acts. The Department of Prime Minister and Cabinet was kept informed.

Binding on the Crown

19. The Act will bind the Crown.

Creating new agencies or amending law relating to existing agencies

20. The Bill will provide the governance framework for the structure of the Auckland Council and its local boards, which will be established from 1 November 2010. As a local authority, the Auckland Council will be subject to the existing accountability regime of the Local Government Act 2002. The Ombudsmen Act 1975 and the Local Government Official Information and Meetings Act 1987 will apply to the Auckland Council. Local boards will be legally part of the Auckland Council but separate entities.

Allocation of decision making powers

21. The Bill empowers the LGC to:

- determine the boundaries of the wards of the Auckland Council;
- determine the number (20-30), boundaries and membership of local boards;
- develop a reorganisation scheme for the partition of the Franklin District and the assets/liabilities of the Franklin District Council between the Auckland Council and the Waikato District Council; and
- set the southern boundary for Auckland.

22. Orders in Council will give effect to the LGC's determinations.

Associated regulations

23. No regulations will be needed to bring the Bill into operation.

24. As discussed above, the Bill empowers the LGC to give effect to its determinations through Orders in Council. These Orders in Council must be made before 10 April 2010 to have the determinations in place for the 2010 local government elections.

Deemed regulations

25. The Bill does not contain provisions empowering the making of deemed regulations.

Definition of Minister/department

26. The Bill does not contain definitions of Minister, department (or equivalent government agency) or chief executive of a department (or equivalent position). Terms and expressions not defined in the Bill but defined in the Local Government Act 2002 have the same meaning as in that Act.

Commencement of legislation

27. The Bill will come into force on the day after the date of Royal assent. Provisions relating to the Auckland Council and its local boards will not commence until 1 November 2010.

Parliamentary stages

28. I intend the Bill be introduced by 14 May 2009 and enacted by 24 September 2009 to enable boundaries to be set in time for the 2010 local government elections.

29. I intend the Bill be sent to the Local Government and Environment Committee for consideration with an instruction that the Committee report finally to the House by 4 September 2009.

Recommendations

30. I recommend that Cabinet:

1. **note** that on 6 April 2009, Cabinet agreed to the development of legislative changes necessary to implement changes to Auckland's governance arrangements [CAB Min (09) 12/7 refers];
2. **note** that on 4 May 2009, Cabinet confirmed the detailed policy content of proposed urgent legislation to implement the government's decisions on Auckland governance, including the introduction of three Bills – two introduced in May 2009 and one introduced later in 2009 [CAB Min (09) 15/11 refers];
3. **note** that the Local Government (Auckland Council) Bill (the Bill) gives effect to the agreed policy proposals on Auckland's governance structure by:
 - 3.1 providing the high level framework for the structure of the Auckland Council – 8 members elected at large and 12 members from wards, and in the order of 20-30 local boards including their high level functions;
 - 3.2 directing and providing powers for the Local Government Commission to determine the boundaries of the wards of the Auckland Council and the local boards, and the number of local boards and their membership; and
 - 3.3 providing powers and functions for the Local Government Commission to develop a reorganisation scheme for the partition of the Franklin District and the Franklin District Council between the Auckland Council and the Waikato District Council;
4. **note** that the Bill inserts provisions into the Local Government (Auckland Reorganisation) Act 2009 providing for Watercare to lead the integration of water and wastewater services under the oversight of the Auckland Transition Agency;
5. **note** that the Bill is not an omnibus Bill and does not require the agreement of the Business Committee to be introduced;
6. **note** that the Minister, and the Associate Minister, of Local Government will be discussing the roles and functions of local boards with some Auckland community groups, and that as a result of this consultation process, changes to the roles and functions of local boards may be made during the Select Committee process;
7. **agree** that the Bill be added to the 2009 Legislation Programme with a category 2 priority (must be passed in 2009);

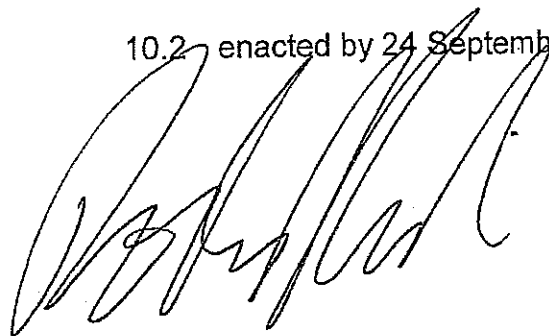
8. **approve** the Local Government (Auckland Council) Bill 2009 for introduction;

9. **agree** that the Bill be introduced by 14 May 2009; and

10. **agree** that the government propose that the Bill be:

10.1 referred to the Local Government and Environment Committee for consideration with an instruction that the Committee report finally to the House on or before 4 September 2009; and

10.2 enacted by 24 September 2009.



Hon Rodney Hide
MINISTER OF LOCAL GOVERNMENT

7 15 /2009

Proactively Released by the Minister of Local Government