

OFFICE OF THE MINISTER OF LOCAL GOVERNMENT

Chair
Cabinet

LOCAL GOVERNMENT (AUCKLAND REORGANISATION) BILL: APPROVAL FOR INTRODUCTION

Proposal

1. This paper seeks approval to introduce the Local Government (Auckland Reorganisation) Bill into the House of Representatives. Another paper entitled *Local Government (Auckland Council) Bill: Approval for Introduction* seeks approval to introduce a second Bill that provides for the governance structure of the Auckland Council and its local boards.

Policy

Background

2. On 6 April 2009, Cabinet directed the development of urgent legislation to give effect to Cabinet decisions on the papers:
 - *Royal Commission on Auckland Governance: Proposed High Level Government Response* [CAB Min (09) 12/7 refers]; and
 - *Royal Commission on Auckland Governance: Options for Managing Transition Period* [CAB Min (09) 12/8 refers].
3. These Cabinet decisions were in response to the report of the Royal Commission on Auckland Governance (the Royal Commission), which was released on 27 March 2009. The Royal Commission was established to inquire into, investigate, and recommend a solution to Auckland's problems.
4. In broad terms, Cabinet agreed to the creation of:
 - the Auckland Council – a single governing body for the Auckland region;
 - a second tier of 20-30 local boards to represent local interests within the region; and
 - the Auckland Transition Agency (ATA) to effect the necessary changes during the transition period.¹
5. Cabinet agreed to a transition timeframe that seeks to have the rationalisation of, and transition to, the new core arrangements significantly completed by October 2010 (in time for the next triennial local government elections) [CAB Min (09) 12/8 refers].

¹ The transition period will start on the day after the date on which the Bill receives the Royal assent and will end on 1 November 2010.

6. 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].
7. The second Bill, entitled Local Government (Auckland Council) Bill, provides for the governance structure of the Auckland Council and its local boards. The accompanying paper seeks agreement to introduce this Bill.

Policy proposals

8. The Bill provides the legislative mechanisms for transition to the new Auckland governance arrangements that are required to be in place as early as possible.
9. The Bill provides for:
 - the establishment of the Auckland Council, as a unitary authority governing the Auckland region, on and from 1 November 2010;
 - the establishment of ATA with powers and responsibilities to plan and manage the transition to the new local government arrangements;
 - safeguards and constraints on the decision-making of the existing Auckland local authorities and their subsidiaries (i.e. council controlled organisations and similar organisations); and
 - the disestablishment of the existing Auckland local authorities (being one regional and seven territorial authorities) on 1 November 2010.
10. The specific powers and functions of ATA and funding arrangements to cover the costs of transition are likely to be contentious aspects of the Bill. 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.
11. Passing the Bill under urgency, without going to Select Committee, is also likely to be contentious. I consider that urgency is required to enable ATA to commence its work to establish the new structures so that members of the Auckland Council and local boards can be elected in the October 2010 local government elections. Urgency is also required to provide effective safeguards around the decisions and actions of existing local authorities in the Auckland region.
12. There are no outstanding policy issues in relation to the content of the Bill. Issues concerning the ongoing governance structure and detailed legislative framework for the new governance arrangements will be addressed in a third Bill, which is expected to be introduced later this year. This Bill will include further provisions for the transition to the new structure on 1 November 2010, and interim arrangements for the initial operation of the Auckland Council.
13. Cabinet agreed to a single Auckland Governance Reform (Transitional Provisions) Bill holding a priority 2 on the 2009 Legislation Programme (must be passed in 2009) [CAB Min (09) 12/14 refers]. To enable implementation of government decisions, Cabinet agreed for two Bills to be introduced concurrently [CAB Min (09) 15/11 refers]. The Legislation Programme priority for the second Bill is addressed in the accompanying paper.

Regulatory impact analysis

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

Compliance

15. 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

16. This paper was prepared by the Department of Internal Affairs.

17. 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.

18. 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.

19. 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

20. The Act will bind the Crown.

Creating new agencies or amending law relating to existing agencies

Auckland Transition Agency

21. The Bill will establish ATA as a statutory entity that is listed in schedule 4 of the Public Finance Act 1989, rather than as a Crown entity under the Crown Entities Act 2004. This is appropriate given its short-term existence and the undesirability of the Crown having ultimate liability for the risks of the entity. The Ombudsmen Act 1975 and the Official Information Act 1982 will apply to ATA.

22. The accountability and governance arrangements for ATA are set out in the Bill. The Department of Internal Affairs will monitor ATA under delegated authority from the Minister of Local Government. ATA will report to the Minister of Local Government, who will be responsible for appointing and removing (at the Minister's discretion) members of ATA. The Chief Executive of ATA is responsible to the governing body of ATA.

Auckland Council

23. The Bill will include high level provision for the establishment of the Auckland Council 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. The second Bill will establish the governance framework for the structure of the Auckland Council and its local boards.

Allocation of decision making powers

24. The Bill does not involve the allocation of decision making powers between the executive, the courts or tribunals.

Associated regulations

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

Deemed regulations

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

Definition of Minister/department

27. The Bill provides for a definition of Minister, which is "Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is responsible for the administration of the Local Government Act 2002."

28. The Bill does not contain definitions of 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

29. The Bill will come into force on the day after the date of Royal assent. Provisions that establish the Auckland Council and disestablish the existing local authorities will not commence until 1 November 2010.

Parliamentary stages

30. I intend the Bill be introduced by 14 May 2009 and passed under urgency by that date.
31. I do not intend the Bill to be sent to Select Committee.

Recommendations

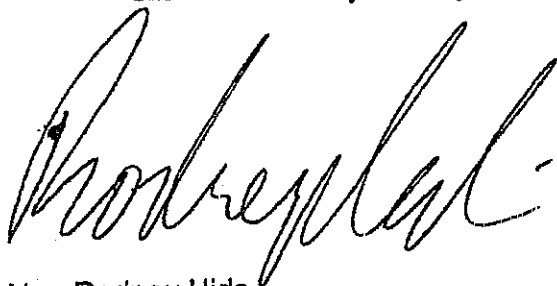
32. I recommend that Cabinet:

1. **note** that on 6 April 2009, Cabinet directed the development of urgent legislation to give effect to the decisions set out in CAB Min (09) 12/7 and CAB Min (09) 12/8;
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 Reorganisation) Bill (the Bill) provides for the legislative mechanisms for transition to the new local governance arrangements, including:
 - 3.1 the establishment of the Auckland Council, as a unitary authority governing the Auckland Region, on and from 1 November 2010;
 - 3.2 the establishment of the Auckland Transition Agency with powers and responsibilities to plan and manage the transition to the new local government arrangements;
 - 3.3 safeguards and constraints on the decision-making of the existing Auckland local authorities and their subsidiaries; and
 - 3.4 the disestablishment of the existing Auckland local authorities on 1 November 2010;
4. **note** that a single Auckland Governance Reform (Transitional Provisions) Bill holds a priority 2 on the 2009 Legislation Programme (must be passed in 2009) [CAB Min (09) 12/14 refers];
5. **note** that the Legislation Programme priority for the second Bill, entitled Local Government (Auckland Council) Bill, is addressed in the accompanying paper;
6. **approve** the Local Government (Auckland Reorganisation) Bill 2009 for introduction;
7. **agree** that the Bill be introduced by 14 May 2009; and

8. agree that the government propose that the Bill be:

8.1 Introduced and passed under urgency to give the Auckland Transition Agency the powers to implement the transitional arrangements by October 2010; and

8.2 enacted by 14 May 2009.



Hon Rodney Hides
MINISTER OF LOCAL GOVERNMENT

7 15 /2009

Proactively Released by the Minister of Local Government