



# Cabinet

## Minute of Decision

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### Auckland Reorganisation Bill: Policy Content

Portfolio: Local Government

On 4 May 2009 Cabinet:

#### Background

- 1 noted that on 30 April 2009, the Cabinet Committee on Implementation of Auckland Governance Reforms (AGR) noted the proposal that three Bills be introduced to implement Auckland Governance decisions [AGR Min (09) 1/1];

#### First Bill

##### *Auckland Council*

- 2 agreed that the first Bill establish the Auckland Council as a unitary authority, and disestablish the existing Auckland Regional Council and territorial authorities, with the respective powers, funding, assets and liabilities of the existing local authorities transferring to the Auckland Council with effect from 1 November 2010;

##### *Auckland Governance Transition Agency*

- 3 noted that on 6 April 2009, Cabinet agreed:
- 3.1 to appoint an independent Establishment Board to implement the new local governance arrangements for Auckland;
  - 3.2 that the Establishment Board will head a Transition Agency established through legislation;
  - 3.3 that the Establishment Board appoint an interim Chief Executive of the Auckland Council for a period of not less than two years;

[CAB Min (09) 12/7]

##### *Reiterate roles and responsibilities*

- 4 agreed that the first Bill establish the Auckland Governance Transition Agency (AGTA) as a statutory entity named in Schedule 4 of the Public Finance Act 1989, and provide that the AGTA be disestablished from the close of 31 October 2010;

5 noted that establishing the AGTA under Schedule 4 of the Public Finance Act will mean that the government has limited powers to direct the activities of the AGTA;

6 noted that the AGTA, as an entity named in Schedule 4 of the Public Finance Act 1989, will automatically have the following provisions of the Crown Entities Act 2004 apply to it:

6.1 sections 133 and 134: power of the responsible Minister (the Minister of Local Government) and of the Minister of Finance to request information, and good reasons for refusing to supply requested information;

6.2 section 154 – 156: annual financial statements, statement of responsibility, and audit report;

6.3 section 158: bank accounts;

6.4 section 150: presentation to the House, and publication of annual financial statements;

7 agreed that the first Bill:

7.1 provide for sections 161, 162, 163 and 164 of the Crown Entities Act 2004, which impose restrictions on the acquisition of securities, borrowing (which for this entity would mean only with the approval of the responsible Minister and the Minister of Finance), giving of guarantees and indemnities, and the use of derivatives, to apply to the AGTA;

7.2 require the AGTA to obtain the approval of its responsible Minister and the Minister of Finance to its budgeted expenditure over the period of its existence;

7.3 provide that any expenses or capital expenditure that the Crown incurs on establishing the AGTA, or for the purposes of the AGTA, constitute a debt due by the AGTA to the Crown on terms and conditions to be agreed between the Crown and AGTA;

7.4 provide that the assets and liabilities of the AGTA on its disestablishment on 31 October 2010 become assets and liabilities of the Auckland Council;

8 agreed that the first Bill provide the power for the Minister of Local Government to appoint and remove (at the Minister's discretion) the chair or members of the Board of the AGTA;

9 agreed that the first Bill include express powers for the AGTA as follows:

9.1 to appoint an electoral officer, by 1 November 2009, to plan and manage preparations for, and the conduct of, local elections in Auckland in October 2010;

9.2 to appoint an interim Chief Executive for the Auckland Council for a term of not less than 2 years, and termination no later than 30 June 2012;

9.3 to appoint a Chief Executive for an existing local authority, if such a position becomes vacant;

9.4 to second employees, and request information from existing local authorities and their subsidiaries, including personal information about their staff;

*Financing the transition*

- 10 noted that on 6 April 2009, Cabinet agreed to a total establishment capital and operating budget for the AGTA of \$12.921 million in 2008/09 and 2009/10 [CAB Min (09) 12/8];
- 11 noted that on 6 April 2009, Cabinet agreed that a mechanism should be developed to recover the costs of the transition from councils [CAB Min (09) 12/8];
- 12 noted that:
- 12.1 the Department of Internal Affairs and Treasury consider that it is preferable to treat the Crown funding as a loan to the AGTA, and to allow the AGTA to borrow further (with the approval of the Minister of Finance and the Minister of Local Government) as required;
- 12.2 the debt would be transferred to Auckland Council on the disestablishment of the AGTA;
- 13 noted that it is now proposed that the first Bill include a provision to the effect that any expenses or capital expenditure that the Crown incurs on establishing the AGTA, or for the purposes of the AGTA, constitute a debt due by the AGTA to the Crown (paragraph 7.3 refers);

*Decisions by existing local government organisations*

- 14 noted that the first Bill will contain provisions to implement the Cabinet agreement that existing councils should retain their existing responsibilities during the transition period, subject to oversight by the AGTA [CAB Min (09) 12/8 (paragraphs 10 and 11)];
- 15 agreed that decisions by existing local authorities or their subsidiaries be confirmed by the AGTA before they are implemented, where the decisions may impact significantly on:
- 15.1 the reorganisation itself; or
- 15.2 the powers or capacity of the Auckland Council; or
- 15.3 the assets and liabilities it will inherit;
- 16 agreed that the first Bill provide, in addition to the general provision in relation to decisions by existing local authorities and their subsidiaries referred to in paragraph 15, types of decisions that require confirmation;
- 17 agreed that the first Bill provide that existing local authorities and their subsidiaries be required to co-operate with the AGTA, both generally and specifically, in responding to requests for information and for the secondment of staff;

*Second Bill*

- 18 noted that it is proposed that the second Bill will proceed through a compressed Select Committee process, with an enactment deadline of 24 September 2009, and will:
- 18.1 provide 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;

- 18.2 direct and provide 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;
- 19 agreed that the second Bill contain the following definition of the high-level role of local boards as being to:
- 19.1 act as an advocate for the local board area;
- 19.2 make recommendations to the Auckland Council about local matters affecting the local board area;
- 19.3 exercise the powers and perform specific, purely local functions;
- 20 agreed that the indicative list of specific roles and functions set out in Appendix A of the paper under CAB (09) 220 form the basis of the elaboration of the roles and functions of local boards in the second Bill;
- 21 noted 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;

#### *Local Government Commission*

- 22 noted that on 6 April 2009, Cabinet agreed that the Local Government Commission determine the ward boundaries for the Auckland Council, the number of local boards (within the range of 20 to 30), their boundaries and the number of elected board members [CAB Min (09) 12/7];
- 23 agreed that the second Bill provide the following criteria for determining ward boundaries for the Auckland Council, and for determining the boundaries of local board areas and any electoral subdivisions of those areas, and the number of board members (between 4 and 9):
- 23.1 the provision of effective representation to communities of interest within Auckland;
- 23.2 in relation to wards and any electoral subdivisions of local board areas, the provision of fair representation to electors having regard to population, to the extent that is consistent with communities of interest;
- 24 agreed that the second Bill define fair representation in terms of a +/-10 percent variance in representation ratios, but allow these limits to be exceeded where required to reflect communities of interest;

#### *Auckland Boundary*

- 25 agreed to include in the second Bill an alternative southern boundary for the Auckland Council geographical area, which would retain the current boundaries (shown in Appendix B of the paper under CAB (09) 220) of the Auckland Region, except for moving the area bordering the Firth of Thames, into the Waikato Region;
- 26 agreed that the Local Government Commission be directed to develop a reorganisation scheme to legally define the boundary based on the indicative boundaries referred to in paragraph 25, and to provide for the dissolution of Franklin District Council and apportionment of its assets between Auckland Council and Waikato District Council;

## Integration of Water and Wastewater Services

- 27 noted that on 6 April 2009, Cabinet agreed in principle that all drinking and wastewater services in urban areas should be delivered by Watercare as a Council Controlled Organisation (CCO) of the Auckland Council [CAB Min (09) 12/7];
- 28 agreed that the second Bill provide for Watercare Services Limited to undertake the integration of water and wastewater services in Auckland, under the oversight of the AGTA and in accordance with a process approved by the AGTA;

## Third Bill

- 29 noted that provisions relating to the ongoing governance structure will need to be augmented by a detailed legislative framework to be put in place by a third Bill introduced to the House later in 2009;

## Legislative Implications

- 30 invited the Minister of Local Government to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above proposals;

## Regulatory Impact Statement

- 31 noted that the Regulatory Impact Analysis Team (RIAT) considers that the proposals relating to Auckland's future governance arrangements are economically significant; but that the regulatory impact analysis was not provided to RIAT for assessment, and the RIAT has not assessed the regulatory impact statement because it was prepared after Cabinet's decisions were made on 6 April 2009;

## Publicity

- 32 agreed that the Prime Minister or the Minister of Local Government announce the above proposals on 4 May 2009, using the following key communications messages:
- 32.1 the government is introducing three Bills for a Greater Auckland – two now and one later;
- 32.2 the first Bill is technical. It provides for an Auckland Council, sets up a transition agency, and looks ahead to the transfer of responsibilities from existing councils. This Bill will be passed under urgency, with no referral to a Select Committee, to get the process underway;
- 32.3 the second Bill has the detail – with provision for the new roles of the mayor, Auckland Council, the local boards, and boundaries. This Bill will go to a Select Committee;

32.4 the third Bill will provide for the working relationship between the new Auckland Council and the new local boards. There will be time for the usual Select Committee review of this Bill.

*Martin Bell*

for Secretary of the Cabinet

Reference: CAB (09) 220

**Distribution:**

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Proactively Released by the Minister of Local Government