

Priority Routine

THE DEPARTMENT OF INTERNAL AFFAIRS

Te Tari Taiwhenua

## Local Government Briefing

Hon Rodney Hide  
Minister of Local Government

**Title:** Royal Commission of Inquiry into Auckland Governance: Timeframe and Implications of Government Decision-Making

**Date:** 10 December 2008

### Key issues

Report from Royal Commission of Inquiry on Auckland Governance: timeframe for, and implications of, Government decision-making

### Action sought

Note this report

### Timeframe

18 December 2009

### Contact for telephone discussion (if required)

Name	Position	Telephone		Suggested first contact
		direct line	after hours	
Marilyn Little	Director, LG & C	494 0589	021 228 118	
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Return to: Marilyn Little

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## Executive Summary

1. Significant dates and actions proposed for the next nine months<sup>1</sup> include:
 

Late January 2009	Responsible Ministers briefed on the Commission's work and the possible implications of changes that might be proposed.
23 February 2009	Cabinet paper seeking agreement on a framework for initial consideration of the recommendations and proposal for the release of the report.
31 March 2009	Commission's report presented to the Governor General.
14 /20 April 2009	Cabinet paper with advice seeking decisions on the broad shape of the Commission's recommendations.
April 2009	Proposed date for the public release of the Commission's report with statement on Government's intentions.
April/May 2009	Urgent legislation introduced to manage transition issues and preparations for the 2010 local elections (if required).
July/August 2009	Range of Cabinet papers seeking decisions on the details of new structures and leading to the introduction of legislation.
August 2009	Legislation introduced.
2. The timeframe after April 2009 is necessarily provisional as we do not know what the Royal Commission of Inquiry into Auckland Governance (the Commission) will recommend. The final shape of the Commission's recommendations will have a significant impact on the actions required.
3. The Terms of Reference for the Commission are attached. The National Party was briefed on the draft Terms of Reference before they were finalised. We would welcome the opportunity to brief you on the Terms of Reference and the work of the Commission to date at the earliest opportunity.

## Background information

4. The Royal Commission of Inquiry into Auckland Governance is required to report by 8 March 2009. You have requested advice on the timeframe for the Government to make its decisions once the Commission's report is received.

## Context

5. It seems likely that the Commission will recommend changes in the way that local and regional government is structured and operates in Auckland. Depending on the decisions that Government makes as a result of those recommendations, the degree of change required could be anywhere between moderate and highly complex.
6. Once the Government receives the Commission's report the first decision to be made is whether, or not, the recommendations are generally acceptable to the Government. If the recommendations are not generally acceptable then a follow up strategy will be prepared.
7. If the recommendations are generally acceptable to the Government then the next decision will be whether, or not, any changed or new structures should be

<sup>1</sup> A table with key milestones is appended.

in place for the 2010 local election. If it is decided that the 2010 local elections will go ahead for the new structures then the general timeframe outlined in this paper applies. If it is decided to defer elections for the new structures then a revised timetable will be provided.

8. Our advice at this time is that if Government wishes to proceed with changing governance structures, then having these addressed by the October 2010 election date is desirable. The focus on those elections will build on the momentum for change generated by the Commission's work, will meet public expectations and reduce the possible confusion that could be generated if elections were deferred or otherwise managed. The longer it takes for decisions to be taken and implemented then the higher the risk will be that apathy or resistance to change will impede the required outcome.
9. Actions will need to achieve three broad objectives:
  - winding up outgoing institutions;
  - establishing new bodies; and
  - ensuring good governance, business as usual and the capacity to continue to deliver services between the date of the Commission's report and when the new structures commence full operations.
10. The Department is working with a number of agencies<sup>2</sup> to ensure that advice can be provided to Ministers as soon as possible after the Commission presents its report. We have used as a starting point the 9 October 2010 local elections and the 10 April 2010 cut-off date for representation and boundary decisions, and have worked back from there to identify the important dates and actions that need to be considered.
11. The Commission's recommendations and subsequent Government decisions are likely to impact on work on a number of Auckland projects and plans. Plans required by statute such as representation reviews (Manukau City Council and Franklin District Council) and Council Long Term Council Community Plans (in 2009) will need to be considered. In addition, decisions and actions will also have to take into account Government policy initiatives involving local government such as infrastructure planning and the review of the Resource Management Act.
12. Oversight and coordination of transition and implementation activities may best be carried out by an independent Government appointed body. In that case, legislation establishing the body and giving it powers would need to be introduced as soon as possible after Government decisions are made.

### **Timeframe and actions**

13. We have identified four significant stages for decision making:

- a) *Prior to the presentation of the report*

As discussed with you earlier this week, between now and March 2009 you may wish to brief your colleagues on the Commission, its work and the

<sup>2</sup> Ministry of Economic Development, Ministry of Transport, Ministry for the Environment, Ministry of Social Development, the Department of Prime Minister and Cabinet, Department of Building and Housing and the Treasury.

implications of any changes proposed. We propose that this take place in late January 2009 with a meeting of responsible Ministers to discuss the Government's desired approach to dealing with the Commission's report.

You may wish to submit a Cabinet paper in late February seeking Cabinet's agreement on:

- the important factors to be considered during the initial assessment of the Commission's recommendations;
- the timetable and strategy for the release of the report and for making initial decisions on the recommendations; and
- managing the links with other policy and legislative programmes.

*b) Once the report is presented*

Once you have received the report you may wish to make an announcement thanking the Commissioners, explaining what will happen next and indicating how the release of the report will be handled.

This may, to some extent, assist in managing requests for you to release the report earlier than planned and help minimise conjecture about the nature of the recommendations and Government's response. It will also give you an opportunity to receive advice on the recommendations before you release the report.

*c) Initial advice, shortly after the Commission's report is received*

As soon as possible after the receipt of the report we propose that a Cabinet paper be prepared seeking decisions on matters covered by the Commission's recommendations and providing advice on:

- whether the Commission has met the Terms of Reference;
- the implications of the recommendations;
- the possible transition and implementation process and timetable (including whether or not it is feasible for the elections for any new bodies to be held at the 2010 elections);
- any urgent legislation which may be required with a proposed timeframe; and
- a communications plan for keeping stakeholders and the general public informed and engaged in the next stages.

Once Cabinet has made decisions, the report could then be released publicly.

If the decision is made to implement all or some of the recommendations, then urgent legislation may be required to be introduced in April/May to:

- create and empower a transition and implementation body; and
- suspend or change existing statutory processes in Auckland, for example the representational reviews required for Franklin District Council and Manukau City Council, and including any special provision for the 2010 local elections.

*d) Detailed policy decision making*

During July and August 2009 we envisage that there will be a number of papers provided to enable Cabinet to make detailed decisions on how to put

into effect the governance changes required. Legislation will need to be drafted for introduction in August 2009 if changes are to be in place to allow the 2010 local elections for the new organisations to proceed.

Representational and boundary changes need to be in place by April 2010 if the 2010 election is to take place. If this timeframe cannot be met, then special legislation will need to be enacted to delay or otherwise manage the elections and governance required.

The Select Committee process will provide the opportunity for Aucklanders to make submissions on the changes being proposed before final decisions on the nature of any new organisations takes place.

### Recommendation

14. It is recommended that you **note** this report.



Anne Carter

Deputy Secretary, Local Government and Community Policy

Noted

Hon Rodney Hide  
Minister of Local Government

1 / 2008

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## Appendix - Proposed time line

Date	Action	Comment
Late January 2009	Relevant Ministers briefed	Ministers need to know about the Commission's process, the implications of possible recommendations, and the likely timetable for decision making and implementation of changes.
23 February 2009	Cabinet paper on the framework for consideration of the recommendations and managing decisions needed to be taken in the future.	The framework will describe the basis for consideration and advice to Government of the recommendations. Some sort of means to enable discussions to take place between Ministers, may need to be established outside of the normal Cabinet committee process.
31 March 2009	Commission's report presented	Presented to the Governor General and given to the Minister of Internal Affairs.
14/20 April 2009	Cabinet paper	High level advice from an all-of-Government perspective seeking initial decisions on the Commission's recommendations.
April 2009	Commission's report released	
The following timetable and actions apply if Government is in general agreement with the Commission's recommendations and directs that new structures will be in place for the October 2010 local elections.		
April/May 2009	Urgent legislation introduced	To manage transition issues, statutory requirements and preparations for the 2010 local elections.
July/August 2009	Range of Cabinet papers seeking Cabinet decisions on the details of new governance arrangements and implementation.	
Aug 2009–Apr 2010	Introduction and passage of implementation legislation, to create new, or modified, local authorities.	New authorities will need time to get established and to appoint key staff before they become operational and take over governance and service delivery functions.
10 April 2010	Deadline for representation and boundary arrangements to be in place for the 2010 local elections	This is to allow compilation of electoral rolls. This date is in effect the cut off date. If actions are not completed by this time then other arrangements for the governance of local authorities will need to be in place.
9 October 2010	Local elections for new local authority structures and existing bodies such as DHBs.	Voting (postal) will take place for three weeks prior to 9 October 2010.
Post election	Residual matters managed.	

## **Attachment**

### **Terms of Reference for the Royal Commission of Inquiry into Auckland Governance**

#### **Royal Commission on Auckland Governance**

Elizabeth the Second, by the Grace of God Queen of New Zealand and Her Other Realms and Territories, Head of the Commonwealth, Defender of the Faith:

To The Honourable PETER SALMON QC., of Auckland, retired High Court Judge; Dame MARGARET BAZLEY, of Wellington, retired public servant; and DAVID SHAND, of Auckland, consultant:

GREETING:

#### **Recitals**

WHEREAS, over the next 100 years, the Auckland region will face enormous change brought about by global economic, environmental, and political forces. Local trends, including high population growth, add to the challenges and opportunities for the region. Auckland has to compete in a global market place to sell its goods and services and to attract the talented people it requires to secure a sustainable and prosperous future:

And whereas, to face these challenges Auckland requires local and regional governance equal to the best in the world and capable of working effectively with central government to ensure Auckland is a successful, sustainable city in the Asia Pacific region and is recognised as such:

#### **Appointment and order of reference**

KNOW YE that We, reposing trust and confidence in your integrity, knowledge, and ability, do, by this Our Commission, nominate, constitute, and appoint you, The Honourable PETER SALMON QC., Dame MARGARET BAZLEY, and DAVID SHAND to be a Commission to receive representations on, inquire into, investigate, and report on the local government arrangements (including institutions, mechanisms, and processes) that are required in the Auckland region over the foreseeable future in order to maximise, in a cost effective manner,

- (a) the current and future well-being of the region and its communities; and
- (b) the region's contribution to wider national objectives and outcomes:

#### **Matters to be taken into account**

And, without limiting the order of reference set out above, We declare that, in conducting the inquiry and making recommendations, you must, under this Our Commission, take into account the implications of the findings of the Independent Inquiry into Local Government Rates for local government arrangements in the Auckland region:

#### **Relevant matters**

And, without limiting the order of reference set out above, We declare that, in conducting the inquiry, you may, under this Our Commission, investigate and receive representations on the following matters:

- (a) what changes to current legislation (consistent with the purposes and principles of local government as described in the Local Government Act 2002) are considered desirable to achieve or support the achievement of the inquiry's objectives; and
- (b) what changes to the boundary of the Auckland region, or to the collaborative arrangements or mechanisms involving other regions across New Zealand, are considered desirable to achieve or support the achievement of the inquiry's objectives; and
- (c) what is required for effective relationships and collaborative arrangements between central and local government; and
- (d) what ownership, governance, and institutional arrangements and funding responsibilities are required to ensure the effective, efficient, and sustainable provision of public infrastructure, services, and facilities to support and enhance—
  - i. the current and future well-being of the Auckland region and its communities; and
  - ii. the performance of the Auckland region as a growth engine in the New Zealand economy and in its role as a key transport hub for New Zealand and the Pacific region; and
  - iii. the ability of the Auckland region to compete internationally as a desirable place to live, work, invest, and do business; and
  - iv. the ability of the Auckland region to respond to economic, environmental, cultural, and social challenges (for example, climate change); and
- (e) what governance and representation arrangements will best—
  - i. enable effective responses to the different communities of interest and reflect and nurture the cultural diversity within the Auckland region; and
  - ii. provide leadership for the Auckland region and its communities, while facilitating appropriate participation by citizens and other groups and stakeholders in decision making processes; and
- (f) what alternative transition processes for the implementation of any new or changed local government arrangements, and of any associated matters that are identified, are necessary or desirable.

### **Definitions**

And We declare that, in this Our Commission, unless the context otherwise requires,—

Auckland region means the geographical area within the jurisdiction of the Auckland Regional Council

inquiry's objectives means the objectives set out in the order of reference

mechanisms means any committees, boards, organisations, or forums required to support primary local government institutions in the effective governance of a region:

## **Exclusions from inquiry and scope of recommendations**

But We declare that you are not, under this Our Commission, to inquire into the following matters:

(a) the purposes and principles of local government as described in the Local Government Act 2002:

(b) local government arrangements in New Zealand generally:

(c) the extent to which recommendations relating to the Auckland region may also be appropriately implemented in other regions across New Zealand, except as provided in paragraph (b) under the heading Relevant matters set out above:

(d) central government agency and institutional arrangements and the accountability of Ministers of the Crown to Parliament for the expenditure of appropriated funds, the provision of services, and the stewardship of assets within their ministerial portfolios:

And We also declare that you are not, under this Our Commission, to make recommendations on the quantum of central or local government funding needed to support the Auckland region:

## **Appointment of chairperson**

And We appoint you, The Honourable PETER SALMON Q.C., to be the Chairperson of the Commission:

## **Power to adjourn**

And for better enabling you to carry this Our Commission into effect you are authorised and empowered, subject to the provisions of this Our Commission, to make and conduct any inquiry or investigation under this Our Commission in the manner and at any time and place that you think expedient, with power to adjourn from time to time and from place to place as you think fit, and so that this Our Commission will continue in force and that inquiry may at any time and place be resumed although not regularly adjourned from time to time or from place to place:

## **Consultation and procedures**

And you are required, in carrying this Our Commission into effect,—

(a) to consult with the public in a way that allows people to express clearly their views on issues relating to local government arrangements for the Auckland region; and

(b) to adopt procedures that will encourage people to express their views in relation to any of the matters referred to in the immediately preceding paragraph; and

(c) to consult and engage with Maori in a manner that specifically provides for their needs; and

(d) to use relevant expertise, including consultancy and secretarial services, and to conduct, where appropriate, your own research:

And you are empowered, in carrying this our Commission into effect,—

(a) to prepare and publish discussion papers from time to time on topics relevant to the inquiry; and

(b) unless you think it proper in any case to withhold any evidence or information obtained by you in the exercise of the powers conferred upon you,—

- i. to include in any discussion papers prepared and published by you all or any of that evidence or information; and
- ii. to publish or otherwise disclose in such other ways that you think fit all or any of that evidence or information:

### General provisions

And, without limiting any of your other powers to hear proceedings in private or to exclude any person from any of your proceedings, you are empowered to exclude any person from any hearing, including a hearing at which evidence is being taken, if you think it proper to do so:

And you are strictly charged and directed that you may not at any time publish or otherwise disclose, except to His Excellency the Governor-General in pursuance of this Our Commission or by His Excellency's direction, the contents or purport of any report so made or to be made by you:

And it is declared that the powers conferred by this Our Commission are exercisable despite the absence at any time of any one member appointed by this Our Commission so long as the Chairperson, or a member deputed by the Chairperson to act in the place of the Chairperson, and at least one other member, are present and concur in the exercise of the powers:

And We do further declare that you have liberty to report your proceedings and interim findings under this Our Commission from time to time if you judge it expedient to do so:

### Reporting date

And, using all due diligence, you are required to report to His Excellency the Governor-General in writing under your hands, not later than 1 December 2008, your findings and opinions under this Our Commission, together with any recommendations that you think fit to make in respect of them:

And, lastly, it is declared that these presents are issued under the authority of the Letters Patent of Her Majesty Queen Elizabeth the Second constituting the office of Governor-General of New Zealand, dated 28 October 1983,\* and under the authority of and subject to the provisions of the Commissions of Inquiry Act 1908, and with the advice and consent of the Executive Council of New Zealand.

In witness whereof We have caused this Our Commission to be issued and the Seal of New Zealand to be hereunto affixed at Wellington this 30th day of October 2007.

Witness Our Trusty and Well-beloved The Honourable Anand Satyanand, Chancellor and Principal Companion of Our New Zealand Order of Merit, Principal Companion of Our Service Order, Governor-General and Commander-in-Chief in and over Our Realm of New Zealand.

[L.S]

ANAND SATYANAND, Governor-General.

By His Excellency's Command—

HELEN CLARK, Prime Minister.

Approved in Council—

DIANE MORCOM, Clerk of the Executive Council.

\* SR 1983/225

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