



Cabinet

CAB Min (09) 27/9

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Minute of Decision

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Local Government (Auckland Council) Bill: Roles and Functions of Local Boards and Relationship with Auckland Council

Portfolio: Local Government

On 3 August 2009, following reference from the Cabinet Committee on Implementation of Auckland Governance Reforms (AGR), Cabinet:

Background

- 1 **noted** that on 6 April 2009, Cabinet agreed that the new Auckland governance structure should be a unitary Auckland Council at the regional level, together with local boards at the local level [CAB Min (09) 12/7];
- 2 **noted** that on 27 April 2009, Cabinet invited the Minister of Local Government to report to AGR on:
 - 2.1 the proposed allocation of responsibilities between local boards and the Auckland Council;
 - 2.2 governance and accountability relationships between the Auckland Council and local boards;

[CAB Min (09) 14/2]
- 3 **noted** that the agreed two-tier model for the Auckland Council requires each of the tiers to exercise distinct and complementary responsibilities:
 - 3.1 the 1st tier being responsible for regional governance;
 - 3.2 the 2nd tier local boards being responsible for local decision-making, engagement and place-shaping;
- 4 **noted** the briefing by the Minister of Local Government and Associate Minister of Local Government on the progress in the consideration of issues concerning Auckland governance reforms;
- 5 **noted** that policy decisions are required on a range of issues to guide the departmental report to the Auckland Governance Legislation Committee, which is required to report back on the Local Government (Auckland Council) Bill by 4 September 2009;

Role of the 1st tier of the Auckland Council

- 6 **noted** that the purpose of the 1st tier of the Auckland Council will be to give effect to the purpose of local government (that is, to enable democratic decision-making and action by and on behalf of its communities, and to promote the social, economic, environmental and cultural well-being of Auckland in the present and for the future);
- 7 **agreed** that the Auckland Council will own all assets, both regional and local, and be the employer of all staff, including those working with and on behalf of local boards;
- 8 **noted** that in April 2009, Cabinet agreed that the Auckland Council would be responsible for civil defence and emergency management and for rural fire [CAB Min (09) 14/2];
- 9 **agreed** that, in meeting its responsibilities set out in paragraph 6 above, the 1st tier will be responsible for:
- 9.1 all regional strategies, policies, plans and bylaws, including district planning and the development of any spatial plans;
 - 9.2 all service delivery on its own behalf and on behalf of the local boards, including contracting for services delivered by third parties;
 - 9.3 maintaining the balance sheet for the region;
 - 9.4 regional infrastructure (for example, regional stadia, parks, museums, libraries, and other recreational facilities);
 - 9.5 all transport matters, including all roading and public transport;
 - 9.6 meeting all statutory regulatory requirements of local authorities (for example, under the Building Act 2004, Gambling Act 2003, Health Act 1956, Resource Management Act 1991, Biosecurity Act 1993, and the Food Act 1981);
 - 9.7 developing its own bylaws, and approving bylaws recommended by the local boards;
 - 9.8 negotiating local board agreements with each local board, which will include minimum levels of service for all local boards across the region;

Role of local boards

- 10 **agreed** that the purpose of each local board be to promote the social, economic, environmental and cultural well-being for their community on issues that are locally significant;
- 11 **agreed** that each local board have the following five roles:
- 11.1 making decisions on the level of local services and facilities needed in the local area to be provided by the 1st tier of the Auckland Council;
 - 11.2 making decisions on place-shaping in the local area (place-shaping can be defined as the use of powers and influence to promote the general well-being of its communities and the environment);
 - 11.3 providing input into 1st tier strategies, policies, plans and bylaws;
 - 11.4 recommending bylaws to the 1st tier of the Auckland Council;

- 11.5 undertaking any other action delegated by the 1st tier of the Auckland Council;
- 12 **agreed** that local boards' decisions on the level of service and facilities (paragraph 11.1 above) and place-shaping (paragraph 11.2 above) must:
- 12.1 reflect local preferences;
- 12.2 be consistent with the 1st tier of the Auckland Council's strategies, policies, plans or bylaws;
- 12.3 be within the local board's allocated funding envelope;
- 13 **agreed** that, in developing its strategies, policies, plans and bylaws, the 1st tier of the Auckland Council be required to:
- 13.1 consult with each local board for which the strategy, policy, plan or bylaw is of local significance;
- 13.2 take into account the views of the communities as expressed to it by their local board;
- 14 **agreed** that when consulted by the Auckland Council on a strategy, policy, plan or bylaw, a local board:
- 14.1 must engage with its communities to identify their views on the strategy, policy, plan or bylaw;
- 14.2 must express the range of views to the 1st tier of the Auckland Council and may express their preferred view;
- 14.3 may not constrain the Auckland Council in its decision-making on the strategy, policy, plan or bylaw;
- 15 **agreed** that local boards be permitted to recommend to the 1st tier of the Auckland Council the making of bylaws under the Local Government Act 2002, provided the recommended bylaw is consistent with the Local Government Act 2002, the Bylaws Act 1910, and the New Zealand Bill of Rights Act 1990;

Ward councillors on local boards

- 16 **agreed** that ward councillors on the 1st tier of the Auckland Council should not be members of local boards;

Formalising the relationship between the 1st tier and the local boards

- 17 **agreed** that local preferences be captured by each local board through a local board plan, which will be developed by each local board as soon as practicable after each local election;
- 18 **agreed** that once local preferences are identified, each local board be required to negotiate a local board agreement with the 1st tier of the Auckland Council for activities, which will identify:
- 18.1 the minimum service levels to be provided by the 1st tier of the Auckland Council across the region;

- 18.2 local preferences relevant to local board's roles (as set out in paragraph 11 above), including any contribution to the Auckland Council's functions;
 - 18.3 how regional and local assets are defined for each local board area (for example, whether a stadium is of regional or local significance);
 - 18.4 funding needs and funding mechanisms;
 - 18.5 mechanisms for resolving disputes between the two tiers;
- 19 **agreed** that local board agreements can only contain matters that are:
- 19.1 purely local;
 - 19.2 consistent with the Auckland Council's strategies, plans, policies and bylaws;
 - 19.3 able to be funded within the local board's funding envelope;
- 20 **agreed** that the 1st tier of the Auckland Council be required to ensure that local boards have a formal process for reporting on the effectiveness and quality of the services delivered to their communities under the local board agreement;

Allocating the budget for local boards

Funding from 1 July 2011

- 21 **agreed** that local boards not be permitted to raise their own funds, and that the Auckland Council will determine the budget for each local board, in consultation with the local board, subject to the following principles:
- 21.1 funding will need to be sufficient to meet the costs of minimum levels of service to the local board (as set by the 1st tier of the Auckland Council) and the local board's administration costs, including the costs of engaging with their community;
 - 21.2 funding for the local board's roles will need to take into account:
 - 21.2.1 demographic information about the local board area;
 - 21.2.2 the current status and inventory of assets, facilities and services in the local board area;
 - 21.2.3 the rates revenue derived from the local board area;
 - 21.2.4 the level of need in each local board area (indicated by socio-economic status);

- 22 **agreed** that, in addition to the funding allocated to the local board in its budget, as described in paragraph 21 above, the 1st tier of the Auckland Council may allocate additional funding to local boards;

Funding from 1 November 2010 to 30 June 2011

- 23 **agreed** that for the period 1 November 2010 to 30 June 2011, the local boards' budgets be set by the Auckland Transition Agency, and be sufficient to meet the costs of each local board's administration costs and to enable them to fulfil their responsibilities, including the place-shaping roles currently undertaken by the current territorial authorities;

Legislative provisions around the functions of the two tiers

- 24 **agreed** that a principles-based approach be included in the Local Government (Auckland Council) Bill for determining where the functions should sit between the 1st tier of the Auckland Council and the local boards, by:
- 24.1 including the purpose statement for the 1st tier of the Auckland Council (as set out in paragraph 6 above) and for the local boards (as set out in paragraph 10 above);
- 24.2 providing more specificity of their respective roles;

Number of local boards

- 25 **noted** that:
- 25.1 in April 2009, Cabinet agreed that the Local Government Commission should determine the number of local boards within the range of 20-30, their boundaries, and number of elected members [CAB Min (09) 12/7];
- 25.2 officials have considered an alternative scenario of the local board model comprising between 12 and 16 local boards with largely the same boundaries as Auckland Council wards;
- 26 **noted** that 20-30 local boards would be more representative of local communities, and would enable better community engagement, but would involve greater administrative, transaction and compliance costs than 12-16 local boards;
- 27 **noted** that the potential for higher costs from a greater number of local boards can be mitigated by simple processes, and that these processes will be aligned with proposals for legislative amendments to simplify all council long-term planning processes;
- 28 **agreed** that the range of local board numbers remain between 20 and 30, including local boards for Waiheke and Great Barrier Islands, with the final determination of the number of boards, their boundaries, and their membership numbers being the responsibility of the Local Government Commission;

Advising the Select Committee

- 29 **noted** that the Department of Internal Affairs has been appointed as advisor to the Select Committee considering the Local Government (Auckland Council) Bill and expects to present its departmental report by around 4 August 2009;
- 30 **agreed** that the departmental report recommend changes to the Local Government (Auckland Council) Bill to give effect to the above proposals, and any necessary consequential, transitional or savings provisions;

Publicity

- 31 **noted** that a plan for communicating the decisions on the above proposals will be developed by the Minister of Local Government, in consultation with the Prime Minister, taking into account the timing of the Select Committee's report back on the Bill.

Secretary of the Cabinet

Reference: CAB (09) 423; AGR Min (09) 5/2-3

Distribution (see over):