



Cabinet

CAB Min (11) 28/5

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Minute of Decision

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Public Services to Meet the Needs of 21st Century New Zealand: Due Diligence Report on Proposals for Structural Change

Portfolio: State Services

On 1 August 2011, the Cabinet

Background

1 **noted** that on 2 May 2011, Cabinet directed the State Services Commission (SSC), in consultation with the Treasury, to report back to Cabinet following "due diligence" for a number of machinery of government proposals for reform by:

- 1.1 July 2011 (Arts Culture and Heritage sector, and other Crown entities and tribunals proposals);
- 1.2 August 2011 (proposals in the Education sector);

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Health Promotion Entity

- 2 **agreed** to disestablish the Alcohol Advisory Council of New Zealand (ALAC), and the Health Sponsorship Council (HSC) and transfer their functions to an arm's-length health promotion entity (combining relevant functions from ALAC, HSC, and the Ministry of Health);
- 3 **agreed** to the repeal of the Alcohol Advisory Council Act 1976 and Part 3 of the Smoke-free Environments Act 1990 (which provides for the Health Sponsorship Council);
- 4 **agreed** that the ALAC levies will be paid to the new entity for use to address alcohol related harm and to pay a share of the operating costs of the new entity that relate to alcohol-related activities;
- 5 **agreed** that the new entity should be established as a Crown agent by enacting amendments to the New Zealand Public Health and Disability Act 2000 that:
 - 5.1 establish the new entity as a Crown agent;
 - 5.2 provide for the name of the new entity;

- 5.3 determine the board size (and composition if necessary);
 - 5.4 set out the new entity's specific functions and powers on establishment, including the advisory role previously provided by ALAC;
 - 5.5 provide for the continuation of the levies previously payable under section 28 of the Alcohol Advisory Council Act 1976, to be paid to the new entity for use to address alcohol related harm and to pay a share of the operating costs of the new entity that relate to alcohol-related activities;
 - 5.6 provide for the continuation, upon the disestablishment of ALAC and HSC, of ALAC's and HSC's functions, powers, property, information, rights, liabilities, assets, contracts, legal proceedings and other things by vesting them in the new entity;
 - 5.7 provide for the continuity of employment, upon the disestablishment of ALAC and HSC, of those of ALAC's and HSC's employees who will continue as employees of the new entity, and dealing with technical redundancy and other employment matters;
 - 5.8 provide for the continuity of employment of those employees who have been identified by the Ministry of Health as performing functions that will be carried out by the new entity, and dealing with technical redundancy, continuity of membership of the Government Superannuation Fund and other employment matters;
- 6 **noted** that officials estimate that the proposals outlined in paragraph 2-5 above will provide savings of \$7.500 million over a four year period, offset by one-off costs of transition of \$0.400 million;
- 7 **noted** that consequential amendments to legislation may be required to remove references to ALAC and the HSC;
- 8 **noted** that a consequential amendment may be required to section 1 of the Health Sector (Transfers) Act 1993 to include the new entity as a "publicly-owned health and disability organisation" to enable, post-establishment, the transfer of assets and liabilities from the Crown to the new entity under that Act;

Crown Health Financing Agency

- 9 **agreed** to disestablish the Crown Health Financing Agency (CHFA) by repealing sections 57-59 of Part 4 of the New Zealand Public Health and Disability Act 2000;
- 10 **agreed** to the continued administration of CHFA's District Health Board (DHB) lending function by the New Zealand Debt Management Office in the Treasury;
- 11 **noted** that the Ministry of Health will take over other DHB lending functions such as pre-loan credit analysis and post-loan credit monitoring;
- 12 **agreed** to transfer CHFA liabilities, which principally consist of historic claims relating to Area Health Boards, to the Ministry of Health;
- 13 **agreed** to discontinue CHFA's property advisory, disposal and financial advisory services;

- 14 **agreed** that CHFA's existing portfolio of property and any remaining assets will transfer to the Ministry of Health;
- 15 **noted** that officials estimate that the proposals outlined in paragraphs 9-14 above will provide savings of \$6.800 million over a four year period, offset by one-off costs of transition of \$0.290 million;
- 16 **noted** that any transfer of CHFA's assets to the Ministry of Health and any transfer of the Mental Health Commission's (MHC) assets to the Health and Disability Commissioner (HDC) will require a vesting provision in the Omnibus Bill;
- 17 **noted** that consequential amendments to legislation may be required to remove references to CHFA;

Mental Health Commission

- 18 **agreed** to bring forward the time and date MHC is due to cease from 5 pm on 31 August 2015 to 5 pm on 30 June 2012, by amending section 13 of the Mental Health Commission Act 1998, which will result in the expiry and repeal of that Act;
- 19 **agreed** to the transfer of MHC's advocacy and monitoring functions to HDC;
- 20 **agreed** to amend section 9 of the Health and Disability Commissioner Act 1994, to provide that a Mental Health Commissioner be established in HDC, to carry out the advocacy and monitoring functions that were previously carried out by MHC;
- 21 **agreed** to:
- 21.1 the appointment of the current chairperson of MHC as Mental Health Commissioner in HDC on her current remuneration until 31 August 2015;
- 21.2 an amendment to the legislation to reflect this;
- 22 **agreed** to add to Schedule 4 of the Remuneration Authority Act 1977 the Mental Health Commissioner and deputy commissioners in HDC;
- 23 **noted** that officials estimate that the proposals outlined in paragraphs 18-22 above will provide savings of \$3.330 million over the intended three year period of the MHC, offset by one-off costs of transition of \$0.350 million;
- 24 **noted** that when MHC ceases, consequential amendments to legislation may be required to remove references to MHC;

Charities Commission

- 25 **agreed** to disestablish the Charities Commission by repealing those parts of the Charities Act 2005 that establish or refer to the Charities Commission, with the result that the functions and actions that were previously carried out by the Charities Commission will be carried out by the Department of Internal Affairs (DIA) (with registration decision-making carried out separately by a statutory board);

- 26 **agreed** to amend the Charities Act 2005 to:
- 26.1 establish a statutory board of three persons with decision-making powers concerning the registration and deregistration functions, and with secretariat support and other functions (including monitoring, investigative and prosecuting functions) carried out by DIA;
- 26.2 set out other provisions relating to the statutory board, including its powers, duties, membership, and delegation powers;
- 27 **noted** that SSC officials estimate that the proposal will provide savings of \$2.432 million over a four year period, offset by one-off costs of transition of \$0.300 million (with savings about \$400,000 less over the period if a decision making board is established);
- 28 **noted** that any transfer of the Charities Commission's assets to DIA will require a vesting provision in the Omnibus Bill;
- 29 **noted** that consequential amendments to legislation may be required to remove references to the Charities Commission;

Privacy Commissioner and Human Rights Commission

- 30 **noted** that due diligence has indicated that there are no savings from integrating the back offices of the Privacy Commissioner and the Human Rights Commission;

Tribunals

- 31 **agreed** to disestablish the Health Act Boards of Appeal by amending the Health Act 1956, with the effect that the work previously carried out by those Boards of Appeal will fall within the jurisdiction of the District Court;
- 32 **agreed** to disestablish the Maritime Appeal Authority by amending the Maritime Transport Act 1994, with the effect that the work previously carried out by that Authority will fall within the jurisdiction of the District Court;
- 33 **agreed** to disestablish the Land Valuation Tribunals by amending the Land Valuation Proceedings Act 1948, with the effect that the work previously carried out by those Tribunals will fall within the jurisdiction of the District Court;
- 34 **noted** that no transitional provisions are required with respect to the disestablishment of the Health Act Boards of Appeal, or the Maritime Appeal Authority;
- 35 **noted** that transitional provisions are required with respect to the Land Valuation Tribunals, to provide for the continuation to conclusion, by existing tribunal members, of legal proceedings that have commenced prior to the date of the transfer;
- 36 **noted** that legislation will be needed to provide for applications under the relevant enactments to be made to the District Court by originating application;
- 37 **noted** that the Ministry of Justice will consult with the Judiciary to determine the role of valuers, in District Court proceedings pertaining to land valuation, and to determine whether any further amendment may be required to District Courts rules;

- 38 **noted** that the Ministry of Justice will consult with the Judiciary, with respect to fees applicable in District Court proceedings pertaining to land valuation, to determine whether any further amendment may be required to District Courts rules;
- 39 **noted** that no costs or savings have been identified from the proposals in paragraphs 31-38 above;
- 40 **noted** that consequential amendments to legislation may be required to remove references to the Health Act Boards of Appeal, the Maritime Appeal Authority, and the Land Valuation Tribunals;
- 41 **noted** that the Ministry of Justice is leading further work to reform the administration of tribunals, the terms of reference for which are due to be considered by Cabinet in September 2011;

Arts, Culture and heritage sector

- 42 **noted** that most of the Arts, Culture and Heritage proposals are part of existing workstreams, led by the Ministry for Culture and Heritage;
- 43 **invited** the Minister for Arts, Culture and Heritage, and the Minister of Conservation, to jointly lead the identification of appropriate heritage properties and options for the consolidation of those properties;
- 44 **directed** officials from the Department of Conservation and Ministry for Culture and Heritage to provide a progress report on the development of consolidation options for heritage properties to joint Ministers by 31 August 2011;

Legislative programme and drafting instructions

- 45 **invited** the Minister of State Services to issue drafting instructions to the Parliamentary Counsel Office, to prepare a draft Omnibus Bill with a category 4 priority (to be referred to a select committee within the year), giving effect to the decisions in paragraphs: 2-5, 7, 8, 9, 12, 14, 16-22, 24-26, 28, 29, 31-33, 35-38 and 40, for referral to the Cabinet Legislation Committee and Cabinet in late August 2011;
- 46 **noted** that the Omnibus Bill will provide for transitional provisions, dealing with technical redundancy for employees and continuation of things including contracts and legal proceedings, similar to those in sections 30E to 30K of the State Sector Act 1988;
- 47 **noted** that there will be opportunities for input from stakeholders as these proposals progress, including through the Select Committee process;

Financial implications

48 **noted** that, as shown in the table below, Ministers expect that, if the Crown entities proposals in paragraphs 2, 9, 18 and 25 are agreed, the transition would yield savings in the order of \$20 million over the period 2012/13 to 2015/16, offset by one-off costs of transition estimated at \$1.340 million in total (some of which may occur in 2011/12), and ongoing savings from 2016/17 of \$4.169 million per annum, as shown in the table below:

	2011/12	2012/13	2013/14	2014/15	2015/16 & outyears
\$ million					
Health promotion entity (ALAC, HSC, part of MoH)					
Costs (*)	0.400	0	0	0	0
Savings		1.875	1.875	1.875	1.875
CHFA (to MoH)					
Costs (*)	0.290	0	0	0	0
Savings		1.700	1.700	1.700	1.700
MHC (to HDC)					
Costs (*)	0.350	0	0	0	0
Savings		1.110	1.110	1.110	0
Charities Commission (to DIA)					
Costs (*)	0.300	0	0	0	0
Savings **		0.500	0.644	0.644	0.644
Total net savings	(1.340)	5.185	5.329	5.329	4.219

(*) Depending on the timing of legislative changes and implementation dates, costs may occur in 2011/12 or 2012/13. However, for the purposes of the table above, officials have assumed that all the costs fall within 2011/12.

(**) Charities Commission to DIA savings will be about \$400,000 less over the period if a decision making board is established.

49 **noted** that the expected savings levels, in the table above, are based on estimates of potential reductions in full-time equivalent staff (FTEs), savings in Board costs, efficiencies in back office support and, in some cases, changes in functions;

50 **noted** that the estimated costs, in the table in paragraph 48 above, are based on anticipated costs of staff redundancies, transition costs such as change programme management, and costs of adapting and integrating systems (such as information technology) where appropriate;

51 **noted** that final savings and costs for any of the structural changes that are agreed by Cabinet cannot be finally determined until the changes have been implemented;

52 **authorised** the Minister of Finance, relevant Vote Minister, and relevant responsible Minister where applicable jointly to approve the necessary final changes to baselines as part of the Baseline Update process, once final savings, costs and transfers of net assets are determined through the change process;

Publicity

- 53 **noted** that the Minister of State Services intends to release the paper attached to CAB (11) 444 on the *Better Public Services* page on the Department of the Prime Minister and Cabinet's website, once relevant organisations have advised affected staff of decisions;

Implementation

- 54 **authorised** the Prime Minister, the Deputy Prime Minister, and the Minister of State Services to make consequential policy decisions that are consistent with the overall approach of the above proposals;
- 55 **directed** the State Services Commissioner to work with the chief executives of the monitoring departments to:
- 55.1 establish a project governance group;
- 55.2 develop an implementation plan and report that plan to relevant Ministers by August 2011 (to fit with legislative drafting timeframes);
- 56 **invited** the Minister of Health to set up an Establishment Board for the health promotion entity, to:
- set the strategic direction for, and govern, the operational establishment of the entity;
 - select a chief executive designate (to lead operational establishment and be the foundation chief executive);
 - together with the chief executive designate, decide on the structure and personnel of the entity;
 - develop budgets and accountability documents;
- 57 **directed** the Ministry of Health to lead the overall change process for the health promotion entity, in consultation with the SSC, the Treasury, ALAC and HSC.

Rebecca Kitteridge
Secretary of the Cabinet

Reference: CAB (11) 444

Distribution:

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Director PAG, DPMC

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