



# Cabinet

CAB Min (09) 38/19

Copy No: 28

## Minute of Decision

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### Removing Barriers to Water Infrastructure Development in the Local Government Act 2002

Portfolio: Local Government

On 27 October 2009, following reference from the Cabinet Economic Growth and Infrastructure Committee (EGI), Cabinet:

- 1 **noted** that the current legislative framework in the Local Government Act 2002 (LGA) places a number of restrictions on councils' water services, and that these restrictions are contrary to the principles of general empowerment in the LGA;
- 2 **noted** that providing councils with an increased range of options for the provision and management of water services by amending the LGA is consistent with the proposed Infrastructure Bill's objective of removing any unnecessary barriers;
- 3 **noted** that the paper attached to CAB (09) 624 sets out two options for the removal of unnecessary barriers to water infrastructure development:
  - 3.1 a comprehensive change option; or
  - 3.2 an alternative minimal set of changes;
- 4 **agreed** to the minimal change option to meet the government's objectives of removing unnecessary barriers to water infrastructure development, by:
  - 4.1 extending the 15-year limit on contracts and joint arrangements with the private sector in sections 136(1) and 137(2)(a) of the LGA to 35 years;
  - 4.2 removing the words "throughout and" from the beginning of the section 137(4)(b) of the LGA, to provide for joint arrangements to include Build, Own, Operate and Transfer (BOOT) schemes by allowing ownership of infrastructure by the non-council party during the period of the contract;
  - 4.3 repealing sections 136(2)(b) and 137(4)(a)(ii) of the LGA, which currently require local government organisations that enter into a contract or joint arrangements with the private sector to retain control over all matters relating to the management of water services;
  - 4.4 making consequential amendments to clarify that franchise arrangements are not permitted;

- 5 **noted** that neither option proposed in the paper under CAB (09) 624 has any direct costs to the Crown;
- 6 **noted** that:
- 6.1 the intention is for the amendments to give effect to these decisions to be included in the Local Government Amendment Bill (the Bill);
- 6.2 the Bill has a category 4 priority (to be referred to a select committee in 2009) on the 2009 Legislation Programme, and is planned for introduction late in 2009;
- 7 **invited** the Minister of Local Government to issue drafting instructions to Parliamentary Counsel Office for the preparation of amendments to the LGA to give effect to the above proposals;
- 8 **authorised** the Minister of Local Government, Associate Minister of Local Government and other affected portfolio Ministers, to provide direction to the Parliamentary Counsel Office on drafting issues;
- 9 **noted** that Cabinet has authorised a group of Ministers, comprising the Prime Minister, the Minister for Infrastructure, Associate Minister for Infrastructure, Minister of Local Government and Associate Minister of Local Government to take decisions on the process, timing and content of the communications strategy for announcing Cabinet's decisions on the proposals on local government transparency, accountability and financial management [CAB Min (09) 38/16-18] and on water infrastructure development [CAB Min (09) 38/19].

*Rebecca Kitteridge*

Secretary of the Cabinet

Reference: CAB (09) 624

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Proactively Released by the Minister of Local Government