

Chair  
Cabinet Expenditure Control Committee

**Public services to meet the needs of 21<sup>st</sup> century New Zealand: Due diligence report on proposals for structural change**

**Proposal**

- 1 This paper reports back on due diligence for a number of proposals for structural change to ensure that government administration is efficient, well organised and resilient [CAB Min (11) 17/6 refers].

**Executive summary**

- 2 This paper reports back on due diligence for changes to seven Crown entities and three tribunals, and in the Arts, Culture and Heritage sector. They form part of the programme of reforms which the Deputy Prime Minister and I announced on 31 May 2011.
- 3 The due diligence process involved relevant chief executives, Board chairpersons, key staff as required and some other stakeholders (including the Public Service Association). It considered the opportunities and risks associated with each proposal, and whether they should proceed.
- 4 I recommend that a proposal to merge the back offices of the Privacy Commissioner and Human Rights Commission should not proceed, since this would not result in any savings.
- 5 The other proposals should proceed (though sometimes with variations). In summary:
  - establishing an arm's-length health promotion entity (to take on relevant functions from the Alcohol Advisory Council of New Zealand (ALAC), the Health Sponsorship Council (HSC) and Ministry of Health), and disestablishing ALAC and HSC
  - disestablishing the Crown Health Financing Agency (CHFA) and transferring some functions to the Ministry of Health, while others continue to be provided by the Treasury's New Zealand Debt Management Office
  - bringing forward the date that the Mental Health Commission (MHC) is due to be disestablished, and transferring functions to the Health and Disability Commissioner (HDC) (including establishing a new Mental Health Commissioner within HDC)
  - transferring the functions of the Charities Commission to the Department of Internal Affairs (DIA) while providing for the independence of registration decisions through either a statutory board with decision making powers, or a statutory officer, and
  - disestablishing the Health Act Boards of Appeal, the Maritime Appeal Authority, and the Land Valuation Tribunals, and transferring their functions to the District Court.

- 6 In summary, it is estimated that if the proposals in paragraph 5 above all proceed, then they will 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 of \$4.219 million per annum.
- 7 Most of the Arts, Culture and Heritage proposals are part of existing workstreams, led by the Ministry for Culture and Heritage (MCH), which have longer timeframes. Accordingly, I am not seeking Cabinet decisions at this time (apart from a mandate for work on consolidating management of heritage property portfolios).
- 8 I propose that legislative changes to give effect to any proposals for change to Crown entities and tribunals that are agreed, will be progressed through an Omnibus Bill, to be introduced to the House by September 2011.

## Background

- 9 On 31 May 2011, the Deputy Prime Minister and I announced the establishment of a new group to advise on State sector reform, and a number of reviews of State agencies that were expected to proceed subject to a due diligence process (see [www.dpmmc.govt.nz/better\\_public\\_services](http://www.dpmmc.govt.nz/better_public_services)). These announcements followed companion papers on *Public services to meet the needs of 21<sup>st</sup> century New Zealand* submitted to Cabinet in April (overview paper) and early May 2011 (proposals for structural change).
- 10 Building on earlier work, the structural change paper identified further opportunities for reducing the number of standalone entities. It noted that we have over 80 statutory Crown entities with over 450 board members, more than 110 other organisations associated with Ministerial portfolios, and 47 tribunals, several of which hear nil or very few cases per year. It provided a set of proposals to exit from, transfer or merge all or part of the functions from a selected group of standalone organisations.
- 11 Cabinet directed the State Services Commission (SSC), in consultation with the Treasury, to report back in July 2011 on due diligence for the structural change proposals for Crown entities, tribunals, and the Arts, Culture and Heritage sector, and in August 2011 for Education sector proposals.
- 12 This work is designed to focus the State sector on the things that matter most to New Zealanders: easy access to government and high quality frontline services. A State sector that meets the needs of 21<sup>st</sup> century New Zealand is one based on the following principles:
  - clear priorities: we will focus our efforts, and government funding, on the things that matter most to New Zealanders today and in the future
  - high quality services: we will ensure that public services are modern, responsive and provide good value for money
  - reducing waste: we will ensure that government administration is efficient, well organised and resilient.

## **Comment**

- 13 As directed, SSC has undertaken a due diligence process in consultation with the Treasury and taking account of the views of relevant chief executives, Board chairpersons, key staff as required, and some other stakeholders (including the Public Service Association) on opportunities and risks associated with the proposals, financial implications, legal implications, regulatory impacts, and wider implications for the organisations concerned.
- 14 The results of the due diligence process for the proposals for structural change are outlined below.

## **Crown entities and tribunals proposals**

### **Health promotion entity**

- 15 Officials have not identified any reasons why the proposal to disestablish ALAC and HSC, and to transfer relevant functions of ALAC, HSC and the Ministry of Health to an arm's-length health promotion entity, should not proceed.
- 16 I propose that ALAC's independent, evidence-based advisory role to Ministers and the wider group of decision-makers should be transferred to the new entity. This is supported by ALAC.
- 17 The Ministry of Health estimates that approximately \$7.700 million of health promotion programmes from within the Ministry could transfer to the new entity on establishment. The Ministry of Health and the new entity will undertake additional work to report back to me on the transfer of further programmes, resources, assets and liabilities to the new entity. I propose that the Health Sector (Transfers) Act 1993 be amended to include the new entity as a "transferee" under that Act to allow for subsequent transfers.
- 18 ALAC is funded entirely through levies and legislative change will be required to allow the levies to be paid to the new entity. Legislation will also clarify that the levies will be used to address alcohol related harm and pay a share of the operating costs of the new entity that relate to alcohol-related activities.
- 19 I propose that the new health promotion entity be categorised as a Crown agent. The health promotion entity's independence, in its advisory role, will be provided for in the legislation.
- 20 Officials estimate that there will \$7.500 million savings to the Crown over four years from this proposal. These savings will be achieved, first, through reducing back office duplication as the organisations come together, and second, through the synergies and efficiencies that can be achieved in the combined health promotion service delivery functions. Implementation/transition costs are likely to be \$400,000 in the first year. Initial estimates of savings and costs do not include the costs of bringing the existing delivery organisations together in one location, including existing tenancies (as the realised costs will depend on the business model and on the property market at point of transition). Nor have the costs (if any) of rebranding the new entity been included.
- 21 ALAC's main concern was that the design of the new entity be well suited to the work of changing behaviour and attitudes to minimise harm to New Zealanders. To that end ALAC particularly supports the paper's proposal on the transfer of its independent, evidence based advice functions, to the new health promotion entity.

- 22 ALAC strongly recommended that the advice functions and their independent nature be explicitly recognised in the legislation, along with the research function that underpins the evidence base. Similarly, it strongly agrees with the proposal to retain the funding of alcohol harm reduction through the levies on alcohol.
- 23 HSC supports the proposal for a new health promotion entity.

### **Crown Health Financing Agency**

- 24 Officials have not identified any reasons why the proposal to disestablish CHFA and transfer its functions should not proceed.
- 25 The loan administration aspects of CHFA's current lending function will continue to be undertaken by the New Zealand Debt Management Office in the Treasury. Pre-loan activity currently undertaken by CHFA, such as District Health Board (DHB) credit analysis and loan advice, will transfer to the Ministry of Health.
- 26 CHFA's residual functions, including liabilities, which principally consist of historic claims relating to Area Health Boards, will transfer to the Ministry of Health. Officials believe that risks associated with transferring historic claims to the Crown can be effectively mitigated.
- 27 There is no ongoing need for CHFA to provide property advisory, disposal and financial advisory services, which are operated on a fee for service basis. The current portfolio of properties and any remaining assets held by CHFA will transfer to the Ministry of Health.
- 28 Officials estimate that there will be \$6.800 million of savings over four years from disestablishing CHFA. This does not include one-off implementation costs of \$290,000. It does not include the costs of settlements and legal fees in relation to historic claims, which in the first instance should be met from CHFA reserves which have largely been built up for this purpose.
- 29 CHFA stated, in summary, that its current functions can be reassigned to the Ministry of Health or discontinued, but that such action contains risks which may not have been adequately assessed. I consider that the advice I have received is sound, has adequately assessed possible risks and that the indicative costs and savings are sufficient for us to make decisions on these proposals.

### **Mental Health Commission**

- 30 The proposal, in regard to MHC, considered whether to delegate its functions or to bring forward its disestablishment date from the current 31 August 2015. The option of delegating functions of MHC is not preferred. Accordingly, officials recommend bringing forward the disestablishment date of MHC to 30 June 2012.
- 31 I propose establishing a new Mental Health Commissioner, by legislation, within the office of HDC, to carry on advocacy and monitoring responsibilities for the mental health sector. HDC would remain responsible for the overall performance and delivery of HDC's functions, including the transferred mental health advocacy and monitoring functions. The new Mental Health Commissioner would be appointed within HDC.
- 32 I propose that the current chairperson of MHC, Dr Lynne Lane, be established in the new Mental Health Commissioner role, on her current remuneration and conditions, until 31 August 2015. Decisions on funding from 2015/16 will be decided in the context of Budget 2015.

- 33 I propose to amend Schedule 4 of the Remuneration Authority Act 1977, adding the Mental Health Commissioner and deputy commissioners of HDC, so that it is clear that their remuneration is set by the Remuneration Authority.
- 34 Officials estimate that there will be \$3.330 million savings over three years from this proposal. This does not include one-off implementation costs of \$350,000.
- 35 MHC stated, in summary, that in transitioning to HDC it is critical to maintain gains made in the mental health and addiction sector, in the context of significant change as the Government is developing a new Service Development Plan and a new Blueprint. MHC is concerned that the proposed level of funding to be transferred to HDC is insufficient. However, I consider that transferring \$1 million will allow for continuation of the key functions of the Mental Health Commissioner.
- 36 HDC stated, in summary, that HDC is open to the proposal. To maximise value for money in the proposal, HDC proposes that the following features need to be present:
- the new Mental Health Commissioner be appointed as a deputy commissioner
  - the new Mental Health Commissioner will have functions consistent with current arrangements that apply to other deputy commissioners
  - HDC will allocate resources within HDC as appropriate to maximise the efficient allocation of resources within the organisation. HDC notes that the functions to be transferred must be fairly costed before transfer.
- 37 HDC is concerned that communications with the mental health sector will be important, as expectations within the sector will need careful management.
- 38 The Minister of Health will engage with HDC to effectively manage the transition and establish the work programme and ensure adequate resourcing for the transferred functions.

### **Charities Commission**

- 39 Officials have not identified any significant reasons why the proposal to disestablish the Charities Commission and transfer its functions to DIA, while maintaining statutory independence for the registration decisions, should not proceed.
- 40 Officials recommend that statutory independence for registration decisions is provided through either a statutory board with decision making powers, or a statutory officer. The statutory board with decision making powers sends a strong signal of independence, but it is uncommon for a decision making board to be linked to a department in this way, and it will incur some additional cost over other options. The statutory officer is a more common form in government and provides assurance of independence elsewhere it is used.
- 41 I note the planned review of the Charities Act 2005 (scheduled to be completed by 2015) will be a policy review and is not pre-empted by this proposal.
- 42 Officials estimate savings of about \$2.432 million over a four year period (once full integration into DIA has occurred). Savings will be about \$400,000 less over the period if a decision making board is established. These savings are mainly due to a reduction in governance and corporate overhead, and do not include one-off costs of change estimated at approximately \$300,000.

- 43 The Charities Commission does not support the proposal to disestablish the Commission and transfer its functions to DIA. Feedback in regard to an earlier proposal to vest decision making with a statutory officer was:
- The Commission does not accept that a statutory officer within DIA will provide the actual or perceived independence in decision making required.
  - It considers that a single statutory officer will not be able to bring the depth to registration decisions that the board currently provides.
  - It questions the level of savings identified.
  - It notes that this proposal has not involved consultation with the Charities sector.
- 44 DIA considers that savings of \$1.5 million over four years (rather than \$2.432 million as set out in this paper) is achievable, and considers that a reduction in services is likely if the higher savings figure is to be achieved. SSC officials recognise that \$2.432 million savings includes a stretch target that DIA will be encouraged to achieve without reducing services.
- 45 The Minister for the Community and Voluntary Sector is concerned to ensure that the Commission's education function under the Charities Act 2005 is adequately resourced. The Minister will engage with the Department of Internal Affairs to effectively manage the transition and establish the work programme and ensure adequate resourcing for the transferred functions.

#### **Privacy Commissioner and Human Rights Commission**

- 46 Due diligence has indicated that there are no savings from the proposal to integrate the back offices of the Privacy Commissioner and the Human Rights Commission and officials recommend that it should not be progressed.

#### **Tribunals**

- 47 Officials have not identified any significant concerns with the proposals to disestablish the Health Act Boards of Appeal and the Maritime Appeal Authority and for their functions to be carried out by the District Court. No costs or savings have been identified from either proposal; neither Tribunal has had cases to hear for several years. Officials recommend that these proposals proceed.
- 48 Officials also recommend that the proposal to disestablish the Land Valuation Tribunals (LVTs) and transfer their functions to the District Court proceed. Legislation will be needed to provide for applications under the relevant enactments to be made to the District Court by "originating application" within the meaning of the District Courts Rules. Developing the new process for valuers to be involved in the appeal process will require consultation with the Judiciary, including considering what, if any, further amendment is required to the District Courts Rules and the Land Valuation Proceedings Act 1948. However, the Ministry of Justice is confident that the proposal can proceed without imposing any additional costs on parties or on the Crown.

## Arts, Culture and Heritage sector

- 49 Most of the Arts, Culture and Heritage proposals are part of existing workstreams, led by the Ministry for Culture and Heritage (MCH). Progress since May is set out here.
- 50 Examining the potential for greater collaboration between the New Zealand Film Commission (NZFC) and Film NZ is part of a screen sector work programme being jointly managed by the Ministry of Economic Development (MED) and MCH. Recommendations on greater collaboration will be included among the recommendations on the work programme to be provided to Cabinet by 30 June 2012.
- 51 Senior managers from the New Zealand Film Archive (NZFA), Television New Zealand and Radio New Zealand's Sound Archives/Ngā Taonga Kōrero and MCH officials reported to their respective Boards and Ministers on the potential for consolidating the audiovisual archiving operations in mid to late July 2011.
- 52 I propose that the Minister for Arts, Culture and Heritage and the Minister of Conservation jointly lead the identification of appropriate heritage properties and options for the consolidation of those properties. As a first step, I recommend that Department of Conservation (DoC) and MCH officials be directed to provide a progress report on consolidation options to joint Ministers by 31 August 2011.
- 53 Withheld under section 9(2)(f)(iv) of the Official Information Act 1982
- 54 Officials from MCH, DIA, and the Ministry of Justice have consulted with representatives of the media standards bodies and selected stakeholders and are reporting to the Minister for Arts Culture and Heritage, Minister of Broadcasting, and the Minister of Internal Affairs and Associate Minister of Justice, on options for change. If it is decided to advance change in this area, a process of wider consultation would be required.

## Consultation

- 55 The Department of Conservation, Crown Law Office, Ministry for Culture and Heritage, Ministry of Economic Development, Ministry of Health, Department of Internal Affairs, Ministry of Justice, Land Information New Zealand, Ministry of Transport and the Treasury were consulted in the development of this paper. The Department of the Prime Minister and Cabinet was informed.
- 56 Extracts of this paper were provided to the ALAC, the Charities Commission, CHFA, HDC, HSC, and MHC for comment. Their views are recorded in the paper.

## Other consultation

- 57 The Public Service Association was consulted as part of the due diligence process.

## Financial implications

- 58 Although fiscal savings were not the primary rationale put forward for the Crown entities proposals, it is expected that, if they 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.
- 59 The indicative savings estimates in the table below 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. The estimated costs 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:

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

(\*) 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 a four year period if a decision making board is established.

- 60 No costs or savings that would impact on baselines are expected for the tribunals' proposals.
- 61 No changes to appropriations or net assets are recommended at this stage. I recommend that the Minister of Finance, relevant Vote Minister, and relevant responsible Minister where applicable, jointly 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.

## Human rights

- 62 There are no human rights implications associated with this paper.

## **Legislative implications**

- 63 Subject to Cabinet agreement, officials from SSC will work with the Parliamentary Counsel Office and relevant agencies to prepare a draft Omnibus Bill and Cabinet paper for referral to the Cabinet Legislation Committee (Cabinet Business Committee) and Cabinet in late August.

## **Health promotion entity**

- 64 The disestablishment of ALAC and HSC requires 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).
- 65 Establishing the new arm's-length health promotion entity will require amending the New Zealand Public Health and Disability Act 2000 so that it:
- 65.1 establishes the new entity as a Crown agent
  - 65.2 provides for the name of the new entity
  - 65.3 determines the board size (and composition if necessary)
  - 65.4 sets out the new entity's specific functions and powers on establishment, including the advisory role previously provided by ALAC
  - 65.5 provides for the continuation of the levies previously payable as set out in sections 24-34 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
  - 65.6 provides for the continuation, upon the disestablishment of ALAC and HSC, of their functions, powers, property, information, rights, liabilities, assets, contracts, legal proceedings and other things by vesting them in the new entity
  - 65.7 provides for the continuity of employment, upon the disestablishment of ALAC and HSC, of those of their employees who will continue as employees of the new entity, and dealing with technical redundancy and other employment matters
  - 65.8 provides for the continuity of employment of those employees who have been identified by the Ministry, 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.
- 66 Consequential amendments to legislation will be required to remove references to ALAC and HSC.
- 67 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 relating to health promotion programmes from the Crown to the new entity under that Act.

## **Crown Health Financing Agency**

- 68 The disestablishment of CHFA requires repealing sections 57-59 of Part 4 of the New Zealand Public Health and Disability Act 2000.

- 69 The transfer of employees and functions from CHFA to the Ministry of Health will require transitional provisions dealing with technical redundancy for employees, and transitional provisions dealing with the continuation of things including contracts, liabilities and legal proceedings, similar to those in sections 30H to 30K of the State Sector Act 1988; any transfer of CHFA's assets to the Ministry of Health will require a vesting provision in the legislation.
- 70 Consequential amendments to legislation may be required to remove references to CHFA.

### **Mental Health Commission**

- 71 Bringing forward the disestablishment of MHC from the current 31 August 2015 to 30 June 2012, requires amending section 13 of the Mental Health Commission Act 1998, which will result in the expiry and repeal of the Act.
- 72 Providing for a new position of Mental Health Commissioner within HDC, with advocacy and monitoring responsibilities previously carried out by MHC, will require amendment of section 9 of the Health and Disability Commissioner Act 1994.
- 73 Providing for the appointment of the current chairperson of MHC to the new Mental Health Commissioner position, on her current remuneration and conditions until 31 August 2015 will require legislation.
- 74 The transfer of functions from MHC to HDC may require transitional provisions dealing with technical redundancy for employees, similar to those in sections 30E to 30G of the State Sector Act 1988 and will require transitional provisions dealing with the continuation of things including contracts, liabilities and legal proceedings, similar to those in sections 30H to 30K of the State Sector Act 1988; any transfer of MHC's assets to HDC will require a vesting provision in the legislation.
- 75 Consequential amendments to legislation may be required to remove references to MHC.
- 76 A consequential amendment to Schedule 4 of the Remuneration Authority Act 1977 is required to specifically enable the Remuneration Authority to set the remuneration of the Mental Health Commissioner and deputy commissioners in HDC.

### **Charities Commission**

- 77 The disestablishment of the Charities Commission requires the purpose of the Charities Act 2005 to be changed and the repeal of those parts of the Act 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 DIA (with registration decision making carried out separately by a statutory board if that option is preferred).
- 78 The Charities Act 2005 will need to be amended to provide for either:
- 78.1 a statutory officer within DIA to carry out statutorily independent registration and de-registration functions, including the monitoring, investigative, and prosecuting functions that were previously carried out by the Charities Commission, under section 10 of the Charities Act 2005, or

- 78.2 a statutory board with decision making powers in regard to the registration and deregistration functions, with other functions (including monitoring, investigative and prosecuting functions) carried out by DIA. Legislation would provide for the establishment of the decision making board, including its powers, duties, membership, delegation powers and other provisions.
- 79 The transfer of employees and functions from the Charities Commission to DIA will require transitional provisions dealing with technical redundancy for employees and continuation of things such as contracts, liabilities, registration applications, de-registration proceedings, investigations, and prosecutions, similar to those in sections 30E to 30K of the State Sector Act 1988, any transfer of the Charities Commission's assets to DIA will require a vesting provision in the legislation.
- 80 Consequential amendments to legislation may be required to remove references to the Charities Commission.

### **Tribunals**

- 81 The disestablishment of the Health Act Boards of Appeal requires repeal of section 124 of the Health Act 1956, which establishes the Health Act Boards of Appeal, and removal of other legislative references to the Health Act Boards of Appeal. Following that repeal the work undertaken by those Boards will fall within the jurisdiction of the District Court.
- 82 No transitional provisions are required in relation to the Health Act Boards of Appeal, because no appeals are underway. In the unlikely event that an appeal was lodged with a Board of Appeal before disestablishment, transitional provisions would be required.
- 83 The disestablishment of the Maritime Appeal Authority requires amendment of the Maritime Transport Act 1994 to remove legislative references to the Maritime Appeal Authority, including those in sections 52(2) and 52(5), and to repeal section 82 and Schedule 2. The work that was previously carried out by this Authority will fall within the jurisdiction of the District Court.
- 84 No transitional provisions are required in relation to the Maritime Appeal Authority.
- 85 The disestablishment of LVTs requires amendment to the Land Valuation Proceedings Act 1948 to remove references to LVTs, and removal of other legislative references to LVTs. The work that was previously carried out by those Tribunals will fall within the jurisdiction of the District Court.
- 86 The District Court's assumption of the work previously carried out by LVTs will require transitional provisions that provide for the continuation to conclusion, by existing tribunal members, of legal proceedings that have commenced prior to the date of the transfer.
- 87 Legislation will be needed to provide for applications under the relevant enactments to be made to the District Court by originating application.
- 88 Consequential amendments to legislation may be required to remove references in relevant enactments to the Health Act Boards of Appeal, the Maritime Appeal Authority and LVTs.

## **General**

- 89 Officials recommend that the Deputy Prime Minister, the Minister of State Services, and the relevant portfolio Minister be authorised to make consequential policy decisions, which are consistent with the overall approach of the above recommendations.
- 90 There will also be consequential amendments required to primary and secondary legislation as a result of these proposals.

## **Arts, Culture and Heritage sector**

- 91 There are no legislative implications associated with the Arts, Culture and heritage sector proposals at this time, but may be in the future.

## **Regulatory impact analysis**

- 92 A regulatory impact statement is not required for the proposals in this paper as they concern the internal administrative arrangements of government, with no or only minor impacts on businesses, individuals or not-for-profit entities.

## **Implementation**

- 93 Where Cabinet agrees to any of the structural changes, the State Services Commissioner will work with the chief executives of monitoring departments to:
- establish a project governance group
  - develop an implementation plan and report that plan to the relevant Minister (or Ministers) by August 2011 (to fit with legislative drafting timeframes).
- 94 I propose that the Minister of Health be invited to appoint an establishment board to have responsibility for the establishment of the new health promotion entity. The establishment board will select a chief executive designate, and between them, will set the strategic direction for the new entity, and determine its operating and cost structure. To implement these changes, I further propose that the Ministry of Health lead the overall change management process in consultation with the SSC, the Treasury, ALAC and HSC.
- 95 A number of different proposals will be addressed in the Omnibus Bill, and each will have its own requirements for implementation. However, I expect that most of proposals will be in effect from 1 July 2012, subject to the progress of legislation.

## **Publicity**

- 96 I intend to release this paper on the Department of the Prime Minister and Cabinet's (DPMC) website, at [www.dPMC.govt.nz/better\\_public\\_services](http://www.dPMC.govt.nz/better_public_services), once relevant organisations have advised affected staff of decisions.
- 97 I will ensure that engagement continues with affected entities and staff. Broader consultation with stakeholders will occur as the implementation progresses, in accordance with the respective implementation plans. As legislation will be required to give effect to a number of proposals, the public will have the opportunity to engage in the legislative process.

## Recommendations

98 It is recommended that the Committee:

- 1 **note** 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 August 2011 (proposals in the Education sector) and by July 2011 (Arts Culture and Heritage sector, and other Crown entities and tribunals proposals) [CAB Min (11) 7/6]

### Health Promotion Entity

- 2 **agree** 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, the Health Sponsorship Council, and the Ministry of Health)
- 3 **agree** 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 **agree** 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 **agree** 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 **note** that officials estimate that the proposal will provide savings of \$7.500 million over a four year period, offset by one-off costs of transition of \$0.400 million
- 7 **note** that consequential amendments to legislation may be required to remove references to ALAC and the HSC
- 8 **note** 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 **agree** 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 **agree** to the continued administration of CHFA’s District Health Board (DHB) lending function by the New Zealand Debt Management Office in the Treasury
- 11 **note** that the Ministry of Health will take over other DHB lending functions such as pre-loan credit analysis and post-loan credit monitoring
- 12 **agree** to transfer CHFA liabilities, which principally consist of historic claims relating to Area Health Boards, to the Ministry of Health
- 13 **agree** to discontinue CHFA’s property advisory, disposal and financial advisory services
- 14 **agree** that CHFA’s existing portfolio of property and any remaining assets will transfer to the Ministry of Health
- 15 **note** that officials estimate that the proposal will provide savings of \$6.800 million over a four year period, offset by one-off costs of transition of \$0.290 million
- 16 **note** that any transfer of CHFA’s assets to the Ministry of Health and any transfer of MHC’s assets to HDC will require a vesting provision in the Omnibus Bill
- 17 **note** that consequential amendments to legislation may be required to remove references to CHFA

### **Mental Health Commission**

- 18 **agree** 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 the Act
- 19 **agree** to the transfer of MHC’s advocacy and monitoring functions to HDC
- 20 **agree** 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 **agree** to the appointment of the current chairperson of MHC as Mental Health Commissioner in HDC on her current remuneration until 31 August 2015 and an amendment to the legislation to reflect this
- 22 **agree** to add to Schedule 4 of the Remuneration Authority Act 1977 the Mental Health Commissioner and deputy commissioners in HDC
- 23 **note** that officials estimate that the proposal will provide savings of \$3.330 million over the intended three year period of the Mental Health Commission, offset by one-off costs of transition of \$0.350 million
- 24 **note** that when MHC ceases, consequential amendments to legislation may be required to remove references to MHC

### **Charities Commission**

- 25 **agree** 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 DIA (with registration decision making carried out separately by a statutory board if that option is preferred)
- 26 **agree** to amend the Charities Act 2005 to establish a statutory officer within DIA to carry out statutorily independent registration and de-registration functions, including the monitoring, investigative, and prosecuting functions that were previously carried out by the Charities Commission, under section 10 of the Charities Act 2005

#### **OR**

- agree** to amend the Charities Act 2005 to establish a statutory board with decision making powers in regard to the registration and deregistration functions, with other functions (including monitoring, investigative and prosecuting functions) carried out by DIA. Legislation would provide for the establishment of the decision making board, including its powers, duties, membership, delegation powers and other provisions
- 27 **note** 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 **note** that any transfer of the Charities Commission's assets to DIA will require a vesting provision in the Omnibus Bill
- 29 **note** that consequential amendments to legislation may be required to remove references to the Charities Commission

### **Privacy Commissioner and Human Rights Commission**

- 30 **note** 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 **agree** 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 **agree** 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 **agree** 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 **note** that no transitional provisions are required with respect to the disestablishment of the Health Act Boards of Appeal, or the Maritime Appeal Authority
- 35 **note** 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 **note** that legislation will be needed to provide for applications under the relevant enactments to be made to the District Court by originating application
- 37 **note** 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 **note** 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 **note** that no costs or savings have been identified from these proposals
- 40 **note** 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 **note** 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

#### **Arts, Culture and heritage sector**

- 42 **note** that most of the Arts, Culture and Heritage proposals are part of existing workstreams, led by the Ministry for Culture and Heritage
- 43 **invite** 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 **direct** 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 **invite** 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 recommendations; 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 (Cabinet Business Committee) and Cabinet in late August 2011
- 46 **note** 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 **note** that there will be opportunities for input from stakeholders as these proposals progress, including through the Select Committee process

## Financial implications

- 48 **note** that, as shown in the table below, Ministers expect that, if the Crown entities proposals in recommendations 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.

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

(\*) 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 **note** 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

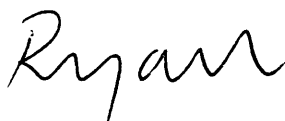
- 50 **note** that the estimated costs, in the table above, are based on anticipated costs of staff redundancies, transition costs such as change programme management, and costs of adapting and integrating systems (such as information technology) where appropriate
- 51 **note** that final savings and costs for any of the structural changes that are agreed by Cabinet cannot be finally determined until the changes have been implemented
- 52 **authorise** 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 **agree** that the Minister of State Services will release this paper on the *Better Public Services* page on DPMC's website, once relevant organisations have advised affected staff of decisions

### Implementation

- 54 **authorise** 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 recommendations
- 55 **direct** 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 **invite** 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 **direct** 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.



Hon Tony Ryall  
Minister of State Services

28, 7, 11