

# Employment Issues

Anthony Drake | Partner

KENSINGTONSWAN.COM

AUCKLAND 18 Viaduct Harbour Avenue Tel: +64 9 379 4196

WELLINGTON 89 The Terrace Tel: +64 4 472 7877

KensingtonSwan  
\*LAWYERS



2269380

# Overview

- ATA Draft Organisational Structure and Staff Transition Discussion Document
- Local Government (Auckland Law Reform) Bill
- Queensland
- New South Wales

# Local Government (Tamaki Makaurau Reorganisation) Bill

- “Employee’s of an existing Council become an employee of the Auckland Council”
- Provision left out of Act

# ATA Draft Organisational Structure and Staff Transition Discussion Document

- Not to replicate existing practices and structures
- Clear linkages and management accountabilities
- Effective strategic planning
- Minimise management tiers
- Small core executive team
- Progressive integration of systems

# Scope of Workforce Change

- Provide clarity to employees
- Corporate services will be reorganised
- No systems constraints
- Reorganisation completed before 1 Nov
- Systems constraints, changes are dependant on the timeframe e.g. payroll, IT, finance
- No review of roles in community facilities/operational work and community services/infrastructure services
- Customer facing roles are to remain

# Protocols and processes for staff transition

- 26 November – consultation on Discussion Document – now closed
- Dec/Jan – release of revised organisation structure/recruitment of Executive Group commences
- Jan/Feb – map all existing employees to new structure
- Feb to Nov and beyond – workforce change proposals developed within work streams

# ATA transfer principles

- Transfer of position where roles are the same/substantially similar
- Appointment to new/different roles will be on new terms and conditions
- Significant change in location: option of redundancy
- Where fewer positions than people, selection on:
  - Assessment of merit
  - Service (last on, first off)
  - Skills, competencies

# Local Government (Auckland Law Reform) Bill

- Some positions (such as the 8 Chief Executive roles) will definitely go
- Staff transferring need to have their existing working conditions protected
- Staff who are surplus need to have their options made clear

# Decisions under Bill

- The Bill provides for continuous service for leave and other entitlements, for existing employees who are either transferred or appointed
- Technical redundancy clause included to avoid entitlement to redundancy solely as a result of a change in employer
- Employees confirmed in a similar role will retain the same terms and conditions of employment
- Transfers of staff who have not been declared surplus, and arrangements for staff declared surplus outlined

# Decisions under Bill cont...

- Union members who are employed by the new employer will be deemed to be employees of the new employer for collective bargaining
- Unions can initiate bargaining on behalf of those union members
- Where employees covered by an existing collective agreement move to more than one new employer, each new employer and its employees become party to a single employer collective agreement

# Queensland

- Queensland reduced the number of councils from 157 to 73
- Provided certainty to employees of former councils
- All council staff below the level of chief executive were guaranteed their jobs for three years
- Code of Practice 2007
- Code of Practice ensured that employees' terms and conditions would not change
- Deemed to be no break in employment during the changeover

## Queensland cont...

- Existing employee entitlements carried over
- Not required to serve a probationary period or qualifying period
- Also gave unions an opportunity to improve council members' employment conditions
- 10% pay rise due to equalisation of wages
- On-call allowance, paid maternity leave and travel arrangements were improved

# New South Wales

- Local Government Amendment (Employment Protection) Act 2003
- No forced redundancy of transferred non-senior staff members for three years
- Lateral transfer of non senior staff members