



Report of the
**Local Government
Commission**

For the year ended
30 June 2007

*Presented to the House of Representatives pursuant
to clause 31 of Schedule 4 of the Local Government
Act 2002.*

Minister of Local Government
Parliament Buildings
WELLINGTON

Minister,

We forward, in terms of clause 31 of Schedule 4 of the Local Government Act 2002, the report of the Local Government Commission to 30 June 2007.

Yours faithfully

The Local Government Commission

Sue Piper	Chair
Gwen Bull JP CNZM	Commissioner
Wynne Raymond QSO, LLB	Commissioner

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THE LOCAL GOVERNMENT COMMISSION

The Local Government Commission is constituted under Subpart 3 of Part 3 of the Local Government Act 2002. The Act provides that the Commission shall consist of three members appointed by the Minister of Local Government.

The current members of the Commission are:

Sue Piper (Chair)
Gwen Bull
Wynne Raymond

In February 2007 the Minister of Local Government appointed Colin Dale as a temporary member of the Commission to assist with the consideration of representation reviews. Mr Dale's appointment commenced on 12 February 2007 and concluded on 31 May 2007.

INTRODUCTION

The bulk of the year was taken up with dealing with representation reviews. With 36 reviews to deal with, this was the largest round of reviews ever dealt with by the Local Government Commission.

Good progress was also made on the review of the operation of the Local Government Act and the Local Electoral Act.

60TH ANNIVERSARY OF THE ESTABLISHMENT OF THE COMMISSION

2007 marks the 60th anniversary of the founding of the Local Government Commission. The Commission was established following the recommendation of a Local Government Select Committee in 1945 that a quasi-judicial statutory body be set up to oversee local government reform. In 1947 the first Commission chaired by Israel Joseph Goldstine took office and set to work. The Commission will formally mark this anniversary in the second half of 2007.

REPRESENTATION REVIEWS

The bulk of the year was taken up in dealing with representation reviews. The 2007 representation reviews were the second set of reviews carried out under the Local Electoral Act 2001, the first set having been undertaken prior to the 2004 local elections.

Sixty-four local authorities carried out reviews prior to the 2007 local elections. Of these, seven had also carried out reviews prior to the 2004 local elections. The Commission was required to deal with 36 of these reviews because appeals or objections were lodged against the local authorities' decisions or because, in two cases, regional councils proposed representation arrangements that did not comply with the +/-10% requirement. Of the 36 reviews 26 were from territorial authorities and 10 were from regional councils.

The sole appeal against the Hamilton City Council's review was withdrawn prior to the hearing arranged by the Commission.

Determinations on two reviews, for the Grey District Council and the West Coast Regional Council, were completed prior to 1 July 2006. For the sake of completeness, however, they are dealt with in the following commentary.

Outcomes of the reviews

The outcomes of the reviews dealt with by the Commission were as follows.

In relation to the 10 regional councils:

- eight council proposals did not comply with the +/-10% rule;

- nine Commission determinations included one or more constituencies not complying with the +/-10% rule;
- five proposals involved retention of the status quo in relation to councillor numbers. The Commission agreed with these in four cases (in the other case the Commission determined an increase by one member);
- three proposals involved a reduction in the number of councillors. The Commission agreed in each case though in one of those cases it determined a smaller reduction; and
- two proposals involved an increase in the number of members and the Commission agreed in one case.

In relation to the 26 territorial authorities:

- the Commission determined a different basis of election (i.e. wards, at large, or a mix of both) from that proposed by the territorial authority in four cases, two of which were to retain the status quo;
- eight territorial authority elections will be conducted at large in 2007, five will be conducted using a mix of wards and at large, and 60 will be conducted using a full ward system;
- seven proposals did not comply with the +/-10% rule. The Commission determined an exception to this requirement in two cases: one for an island community and one for an isolated community of interest;
- 17 proposals involved retention of the status quo in relation to councillor numbers and the Commission agreed in 16 cases and determined a reduction in one case;
- eight proposals involved a reduction in councillor numbers and the Commission agreed in two cases (one with a smaller reduction) and determined to retain the status quo in the other six cases;
- one proposal involved an increase in councillor numbers and in this case the Commission agreed;
- 22 proposals involved the status quo in relation to community boards (i.e. retention of boards where they currently exist, and no establishment of new boards) and the Commission agreed in each case, subject in some cases to minor boundary alterations;
- one proposal involved the establishment of an additional two community boards and the Commission determined to retain the status quo (i.e. one board only);
- one proposal involved the disestablishment of a community board and the Commission agreed;
- one proposal involved the status quo in relation to community boards and the Commission determined to combine two of the existing five boards; and
- one proposal involved the status quo in relation to community boards (i.e. no boards) and the Commission determined to establish a board as sought by the local community under the Local Government Act 2002.

Process

The Commission's annual report for 2005/06 commented that it had made a number of changes to the way in which it deals with representation reviews. The intention of these was to make the process more transparent and to allow for a wider range of community views to be heard. A full round of reviews under the changed process has now been completed.

One of the new processes introduced by the Commission was the provision of copies of officers' briefings to the local authority and appellants prior to the hearing. This had the benefit of informing appellants about the process and criteria the Commission works under. A number of uncertainties held by appellants were therefore able to be clarified before hearings.

A further change in procedure instituted by the Commission was the decision to invite to hearings those submitters who had submitted in support of the local authority's proposal during the earlier part of the review process. This was a response to concerns expressed after the 2004 reviews that not doing so meant that the public view expressed at the hearing would be solely negative. This ensured that a wider range of viewpoints was heard by the Commission.

The Commission also decided to release determinations on a progressive basis rather than on a single date at the end of the process as has previously been the case. It meant that a number of local authorities were saved from having to wait many months for the determination for their district. It also had the benefit of those local authorities which had started reviews at a later date than others having some indication as to the Commission's overall approach. This was important as the current Commission's approach differed in some respects from that of the previous Commission.

The Commission's 2007 representation review determinations are summarised in the following table:

Local Authority	Number of appeals and objections	Council's proposal	Commission's decision
Regional Councils			
Auckland Regional Council	1	13 members elected from 6 constituencies	Council's proposal upheld
Bay of Plenty Regional Council	44	8 members elected from 4 general constituencies 2 members elected from 2 Māori constituencies	10 members elected from 4 general constituencies 3 members elected from 3 Māori constituencies
Canterbury Regional Council	23	14 members elected from 9 constituencies	14 members elected from 8 constituencies
Hawke's Bay Regional Council	3	9 members elected from 4 constituencies	Council's proposal upheld with changes to boundaries of constituencies
Manawatu-	Referred	11 members elected from 8	12 members elected

Wanganui Regional Council	under s19v(4) of the Local Electoral Act	constituencies	from 6 constituencies
Otago Regional Council	4	11 members elected from 4 constituencies	Council's proposal upheld
Southland Regional Council	9	12 members elected from 6 constituencies	Council's proposal upheld
Waikato Regional Council	1	12 members elected from 8 constituencies	Council's proposal upheld
Wellington Regional Council	24	14 members elected from 5 constituencies	13 members elected from 6 constituencies
West Coast Regional Council	Referred under s19v(4) of the Local Electoral Act	7 members elected from 3 constituencies	Council's proposal upheld
Territorial Authorities			
Auckland City Council	312	19 members elected from 7 wards 10 community boards	Council's proposal upheld with changes to boundaries of wards and communities
Buller District Council	14	10 members elected from 3 wards 3 community boards	10 members elected from 3 wards 1 community board
Central Otago District Council	1	13 members elected from 6 wards 5 community boards	10 members elected from 5 wards 4 community boards
Gore District Council	6	10 members elected at large 1 community board	3 members elected at large 8 members elected from 4 wards 1 community board
Grey District Council	4	8 members elected from 4 wards	Council's proposal upheld
Hastings District Council	10	8 members elected from 6 wards 1 community board	14 members elected from 6 wards 1 community board
Horowhenua District Council	4	10 members elected from 4 wards 1 community board	Council's proposal upheld
Hurunui District Council	12	8 members elected from 5 wards 1 community board	9 members elected from 5 wards 1 community board
Hutt City Council	14	12 members elected from 6 wards 3 community boards	Council's proposal upheld
Masterton District Council	2	5 members elected at large 5 members elected from 2 wards	Council's proposal upheld
Napier City Council	6	12 members elected at large	6 members elected at large 6 members elected from 4 wards
New Plymouth District Council	5	14 members elected at large 4 community boards	14 members elected from 3 wards 4 community boards
North Shore City Council	13	15 members elected from 3 wards 6 community boards	Council's proposal upheld with changes to boundaries of wards and communities
Palmerston North City Council	30	14 members elected at large 1 community board	15 members elected from 5 wards
Porirua City Council	20	10 members elected from 3 wards	13 members elected from 3 wards
Rangitikei District Council	70	8 members elected from 3 wards 2 community boards	11 members elected from 5 wards 2 community boards

Rodney District Council	28	12 members elected from 4 wards	Council's proposal upheld with changes to boundaries of wards
Rotorua District Council	13	12 members elected from 4 wards	12 members elected from 4 wards 1 community board
South Wairarapa District Council	4	9 members elected from 3 wards 3 community boards	Council's proposal upheld with changes to boundaries of wards and communities
Tasman District Council	936	13 members elected from 5 wards	13 members elected from 5 wards 2 community boards
Waimate District Council	1	8 members elected from 4 wards	Council's proposal upheld
Waitakere City Council	220	14 members elected from 4 wards 4 community boards	14 members elected from 4 wards and 4 community boards, but changes to boundaries of wards and communities
Wanganui District Council	37	10 members elected at large 1 community board	12 members elected at large 1 community board with community subdivided for electoral purposes
Wellington City Council	8	14 members elected from 5 wards 2 community boards	Council's proposal upheld with changes to boundaries of wards and communities
Western Bay of Plenty District Council	6	12 members elected from 5 wards 5 community boards	Council's proposal upheld with changes to boundaries of wards and communities
Whangarei District Council	6	13 members elected from 6 wards	Council's proposal upheld

Local authorities that carried out a review which was not appealed against were:

Ashburton District Council
 Carterton District Council
 Central Hawke's Bay District Council
 Chatham Islands Council
 Clutha District Council
 Gisborne District Council
 Hauraki District Council
 Kaikoura District Council
 Kaipara District Council
 Manawatu District Council
 Matamata-Piako District Council
 Northland Regional Council
 Otorohanga District Council
 Papakura District Council
 Queenstown-Lakes District Council
 Ruapehu District Council
 South Waikato District Council
 Southland District Council
 Stratford District Council
 Taranaki Regional Council
 Taupo District Council
 Timaru District Council
 Upper Hutt City Council
 Waikato District Council

Waipa District Council
Waitaki District Council
Westland District Council

Of the reviews that were not appealed against, three of the reviews involved representation arrangements that did not comply with the +/-10% requirement of section 19V(2) of the Local Electoral Act 2001.

PROPOSAL TO CONSTITUTE A ROTORUA LAKES COMMUNITY

On 1 November 2005 the Commission received an appeal against the Rotorua District Council's decision not to constitute a Rotorua Lakes Community. The Commission began consultation and, with the agreement of all affected parties, decided to consider this proposal in parallel with the wider representation issues raised in the Council's representation review. Hearings on both issues were held in Rotorua on 23 August 2006. The Commission upheld the appeal and determined that a Rotorua Lakes Community should be established. The first election was to be held on 13 October 2007.

LICENSING TRUST DISTRICT BOUNDARIES

In 2006 the Local Government Commission carried out a review of licensing trust district boundaries. The principal issue considered was the lack of conformity between licensing trust boundaries and meshblocks, and the difficulty this creates for the compilation of electoral rolls. As a result of that review the Commission recommended to the Minister of Local Government that he recommend to the Minister of Justice that the Sale of Liquor Act 1989 be amended to provide for the Local Government Commission to review the boundaries of licensing trust districts and licensing trust wards to ensure conformity with meshblocks.

To date, no such amendments have been made to the Sale of Liquor Act. However, the Commission has worked with Statistics New Zealand and the Electoral Enrolment Centre to ensure that as much licensing trust data as possible is included in the Electoral Enrolment Centre's system.

Statistics New Zealand has altered its meshblock coding system to include fields for licensing trust districts and wards. This will enable the following -

- Statistics New Zealand will be able to code meshblocks entirely within licensing trust districts and wards and provide that data to the Electoral Enrolment Centre:
- the Electoral Enrolment Centre will be able to provide enrolment data for complying meshblocks to electoral officers:
- the capture of licensing trust district boundaries in the meshblock system will help ensure against future meshblock changes that depart from licensing trust district boundaries.

In a small number of cases it was possible to alter meshblock boundaries to conform with licensing trust district boundaries. However, until the Sale of Liquor Act is amended a number of licensing trust district boundaries will

continue to differ from meshblocks. The Electoral Enrolment Centre displays on its local elections website (www.elections.org.nz/councils) the meshblocks spilt by non-compliant boundaries for each licensing trust. From this information, electoral officers need to manually encode licensing trust voting rights to the electors affected.

The Commission hopes that this will result in more efficient administration of this aspect of the electoral process.

REVIEW OF THE OPERATION OF THE LOCAL GOVERNMENT ACT 2002 AND THE LOCAL ELECTORAL ACT 2001

The Commission continued its review of the operation of the Local Government Act 2002 and the Local Electoral Act 2001. The Commission is charged with undertaking this review in accordance with section 32 of the Local Government Act 2002.

Of particular note during the year was the holding of “road shows” by Local Government New Zealand on the Acts, at which local authorities could present their views on the operation of the two Acts. This resulted in a substantial submission to the Commission from Local Government New Zealand. The Commission also received a substantial submission from the New Zealand Society of Local Government Managers.

During the final quarter of the year scoping and further information gathering was carried out. This will feed into a significant research exercise to be carried out in 2007/08.

The Act requires the Commission to present its report to the Minister for Local Government as soon as practicable after the October 2007 local elections. The Commission proposes to submit its report to the Minister in mid-2008.

THE COMING YEAR

This year will be a particularly busy one for the Commission. Its key responsibility will be continuing its review of the operation of the Local Government Act 2002 and the Local Electoral Act 2001. The Commission anticipates also having to deal with some reorganisation proposals.

ACKNOWLEDGEMENTS

The Commission thanks its staff for their support and advice during the year. It also thanks the Department of Internal Affairs for the administrative and other services provided and Land Information New Zealand and Statistics New Zealand for their technical support and advice during the representation reviews. The Commission would also like to acknowledge the cooperation of Local Government New Zealand and the Society of Local Government Managers in assisting with the collection of the views of the local government sector for the review of the Local Government Act and Local Electoral Act.

Finally, the Commission wishes to thank the local authorities it has dealt with during the year for their co-operation and assistance.

APPENDIX

DUTIES AND FUNCTIONS OF THE LOCAL GOVERNMENT COMMISSION

Local Government Act 2002

The Local Government Act 2002 gives the Commission a number of responsibilities:

- 1 It must provide advice to the Minister of Local Government when a local authority has sought a binding ruling from the Minister on significant new activities proposed by a regional council (section 16).
- 2 It may make a determination that amends a reorganisation scheme if the Commission is satisfied that:
 - i. this is necessary to enable, or better enable, the intention of the scheme to be put into effect; or
 - ii. some provision of the scheme is no longer relevant or appropriate to the intention of the scheme (section 26).
- 3 It may determine an application from a territorial authority that wishes to be called a city council or a district council (section 27).
- 4 It may provide information about local government and promote good practice in respect of a local authority or of local government generally (section 30).
- 5 It may of its own accord, or must, if the Minister of Local Government requests it, consider matters relating to a local authority or to local government, report on these matters, and make recommendations on them to the Minister and any relevant local authority (section 31).
- 6 It must review the operation of the Local Government Act 2002 and the Local Electoral Act 2001, and report to the Minister of Local Government as soon as practicable after the 2007 local elections (section 32).
- 7 Under Schedule 3, Part 1, Subpart 3, it must:
 - i. (in the case of a proposal to alter a boundary or to transfer responsibilities) consider and determine the proposal if the affected local authorities have agreed to refer it to the Commission or if they have been unable to agree on which of them should process the application; or
 - ii. (in the case of a draft reorganisation scheme to put into effect a proposal to alter boundaries or transfer responsibilities) hear and determine any appeals against the decision of an appointed local authority or joint committee of the affected local authorities.
- 8 Under Schedule 3, Part 1, Subpart 4, it must consider and make a decision on any proposals to:
 - i. unite existing districts or regions;

- ii. constitute a new district or region;
 - iii. abolish a district or region; and
 - iv. create a unitary authority.
- 9 If there is disagreement on how the assets and liabilities are to be apportioned between local authorities when a reorganisation scheme has been implemented, the Commission must make a direction (Schedule 3, clause 69).
 - 10 It must consider and determine appeals against a territorial authority's decision to decline a request from a group of electors for the constitution of a community (Schedule 6).
 - 11 It must carry out a review of a local authority if the Minister of Local Government appoints it as a review authority (Schedule 15).

Local Government Act 1974

The Commission has two responsibilities under the Local Government Act 1974:

- 1 On request, it must determine the vesting, control, construction, and maintenance of a road which forms the boundary between districts (section 318).
- 2 It must hear and determine objections to proposals to transfer the ownership and administration of local authority land drainage and water race schemes (section 517T).

Local Electoral Act 2001

The Commission has two responsibilities under the Local Electoral Act 2001:

- 1 It must consider and determine any appeals and objections relating to a local authority's representation proposals for the next triennial local elections (section 19R).
- 2 It must issue guidelines that identify the matters a local authority should take into account when carrying out a review of representation (section 19ZI).

Local Authority Reorganisation (Property Transfers) Act 1990

This Act authorises the Commission to investigate property dealings of any former local authority between 14 November 1988 and 31 October 1989 and, if the Commission considers it appropriate, to require those dealings to be rectified.

Electoral Act 1993

The Chairperson of the Local Government Commission is to be a member of the Representation Commission (section 28).

New Zealand Public Health and Disability Act 2000

If the Minister of Health believes there should be an inquiry into any question concerning the union, reconstitution, or alteration of the boundaries of any district or constituency of a district health board, the Minister may ask the Minister of Local Government to refer it to the Local Government Commission, who must inquire into it and report on it (Clause 20 of the Second Schedule of the Act).

Port Companies Act 1998

The Commission may determine any matter where a regional council and a territorial authority are unable to reach agreement in respect of any function, power, duty, property, right or undertaking of a former harbour board transferred to them (section 2A).

Auckland War Memorial Museum Act 1996

If the district of a contributing authority is altered, or if an area subject to the museum levy is absorbed into the district of another contributing authority, the Local Government Commission – when exercising its powers in regard to the constitution, alteration, union or abolition of the district of a territorial authority – may:

- i. review the effect of levies and differential factors on the matter that it is considering; and
- ii. make whatever provision on the matter, and for whatever period, that it thinks appropriate (section 23 (6)).

Auckland Metropolitan Drainage Act 1960

If objections are received to proposals to alter the boundaries of the Auckland metropolitan drainage district or the district's inner area, then the Governor-General may direct the Local Government Commission to inquire into and report on the proposals (section 8(3)).

Museum of Transport and Technology Act 2000

If the Museum Board and the Museum's Electoral College cannot agree on an arbitrator to determine the amount of the museum's levy, the Local Government Commission is to appoint an arbitrator (section 20(10)).

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