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Criteria for Proposals and Schemes

The Local Government Act 2002 (“the Act”) contains separate procedures for dealing with proposals to alter boundaries and transfer responsibilities between local authorities on the one hand (Part 1-Subpart 3 of Schedule 3), and proposals to constitute, abolish and unite districts or regions or to create unitary authorities on the other (Part 1-Subpart 4 of Schedule 3).

Common to both sets of procedures are the criteria which the Local Government Commission, an appointed local authority or a joint committee of the affected local authorities (“joint committee”) must apply when considering reorganisation proposals and schemes.

The criteria are specified in clauses 3 to 7 of Schedule 3 to the Act, and broadly speaking, relate to good local government, boundaries and representation.

Promotion of good local government (Clause 3 of Schedule 3)

The Local Government Commission, appointed local authority or joint committee must satisfy itself that the proposal or scheme will:

- promote good local government of the districts or regions concerned; and
- ensure that each local authority provided for under the proposal will:
 - have the resources necessary to carry out its responsibilities, duties and powers,
 - have a district or region appropriate for the efficient and effective performance of its role as specified in section 11 of the Act,
 - contain within its district or region a sufficiently distinct community of interest or sufficiently distinct communities of interests, and
 - be able to meet the requirements of section 76 of the Act, which relate to decision-making.

Under section 11 of the Act, the role of a local authority is to give effect, in relation to its district or region, to the purpose of local government stated in section 10 of the Act, and to perform the duties, and exercise the rights, conferred on it under the Act and any other enactment. The purpose of local government, as outlined in section 10, is to enable democratic local decision-making and action, by, and on behalf of, communities, and to promote the social, economic, environmental and cultural well-being of communities, in the present and for the future.

Broadly speaking, section 76 of the Act requires that local authority decision-making processes must –

- Seek to identify and assess all reasonably practicable options for the achievement of the objective of a decision;
- Give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter;
- Identify and consider the impact of inconsistency of decisions;
- Have processes in place to provide opportunities for Māori to contribute to the decision-making processes;
- Provide reasonable access to relevant information and encourage persons to present their views;
- Be undertaken with due consideration of views submitted and with an open mind;
- Inform persons who present their views of the relevant decisions and the reasons for those decisions.

When considering the criteria specified for a proposal, the Commission, appointed local authority or joint committee must take into account:

- the area of impact of the responsibilities, duties, and powers of the local authorities concerned;
- the area of benefit of services provided;
- the likely effects on any local authority of excluding any area from its district or region; and
- any other appropriate matters.

Boundaries (Clause 4 of Schedule 3)

In determining the boundaries under a proposal or scheme, the Commission, appointed local authority or joint committee must ensure that (where practicable):

- the boundaries of regions conform with water catchments; and
- the boundaries of territorial authority districts conform with the boundaries of regions.

Boundaries of regions and territorial authority districts must also conform with the boundaries of statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes.

In practical terms, the Commission, appointed local authority or joint committee may negotiate with Statistics New Zealand to have meshblocks split or adjusted, if this would suit the purposes of the scheme and does not create other difficulties. The fact that proposed boundaries do not initially conform with meshblocks does not mean that they cannot be considered. But before the Commission, appointed local authority or joint committee can issue a reorganisation scheme, they must conform.

Representation (Clause 5 of Schedule 3)

When considering a proposal or a scheme, the Commission, appointed local authority or joint committee must ensure that the membership of a local authority will:

- provide fair and effective representation for individuals and communities of the

- local authority;
- comply with the requirements of the Local Electoral Act 2001 (see particularly Part 1A of that Act); and
- take into account the responsibilities, duties, and powers of the local authority.

Minimum populations of districts and regions (Clause 6 of Schedule 3)

Proposals must meet the following minimum population criteria:

- 10,000 people for a new district;
- 50,000 people for a new region with a separately elected regional council.

If the proposal does not meet these criteria, it cannot proceed.

Cities (Clause 7 of Schedule 3)

The following criteria must be met for a territorial authority constituted under a reorganisation scheme to be called a city council:

- the district of the territorial authority must have a population of not less than 50,000 people; and
- the district must be predominantly urban; and
- the district must be a distinct entity and a major centre of activity within the region.