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Constituting and Altering Communities

CONSTITUTING COMMUNITIES (Section 49, Local Government Act 2002)

Communities can be set up in three ways:

- by an Order in Council, giving effect to a reorganisation scheme for a particular area; or
- by resolution of the territorial authority, or by the Local Government Commission on appeal, as a result of a proposal by electors to establish a community initiated under Schedule 6 ; or
- as a result of a territorial authority's representation review under the Local Electoral Act 2001.

Schedule 6 of the Local Government Act 2002 sets out the process for constituting community boards as a result of an electoral petition.

No new community board may be elected in the 12 months before a territorial authority general election: clause 2(1)(c) of Schedule 6. A community may be set up wholly within any continuous part of a district but not where a community already exists: clause 1(2).

Setting up a community on the electors' initiative (Clause 3 of Schedule 6)

A citizens' proposal for a community requires a petition signed by at least 10% of electors in an area where the population is 1,500 or more, or, if the population would be less than 1,500, the support of not less than 100 electors, being the majority of the electors present at a public meeting called in the area.

In respect of a proposal initiated at a public meeting, the public meeting must be called by public notice. It would be advisable for those electors present at the meeting, and who are in favour of the proposal, to sign a record of their support for the proposal in the form of a petition.

Requirements for proposal (Clause 4 of Schedule 6)

The proposal must be:

- accompanied by a plan or description by which the area can be clearly identified;
- accompanied by a petition signed by those who support the proposal and giving their full name and the address which qualifies them as electors; and
- sent to the Chief Executive of the territorial authority affected by the proposal.

Within one month of receiving the proposal, the Chief Executive must:

- check the validity of the signatures; and
- forward the proposal to the territorial authority, duly certified as to the number of eligible electors who initiated the proposal.

If the elector requirement is met, the territorial authority must then consider the proposal at its next ordinary meeting or subsequent ordinary meeting.

Territorial authority's consideration of the proposal (Clause 5 of Schedule 6)

When the territorial authority has considered the proposal, it resolves either to give effect to the proposal or to reject it. In either case it must give public notice of its decision.

If a territorial authority decides to give effect to a proposal, the proposal and the plan of the proposed community area must be available for public inspection and submission for a period of 28 days.

The territorial authority must consider all submissions before it finally resolves to adopt or reject the proposal.

In deciding whether to constitute a community, the territorial authority must take into account the appropriate criteria applying to any local government reorganisation proposals under the Local Government Act. The criteria to be taken into account include those relating to the promotion of good local government as set out in clause 3 of Schedule 3: clause 6.

If a proposal is rejected by the territorial authority (Clause 7 of Schedule 6)

If the territorial authority rejects the electors' proposal to set up a community, any elector who has signed the proposal can appeal to the Local Government Commission. When considering the appeal, the Commission will take into account the criteria specified in Clause 3 of Schedule 3.

The Commission has all the powers of the territorial authority to set up a community. It can also determine the functions of the community board for a period of up to three years. However, the territorial authority may allocate additional functions to the community board if it wishes: clause 7.

Requirements for resolutions and Orders in Council (Clause 2 of Schedule 6)

Every Order in Council or resolution that sets up a community must:

- fix the boundaries of the community and describe them in a manner certified by the Surveyor-General as readily capable of identification;

- assign a name to the community; and
- fix the date of the first election of members of the community board. (This date cannot be within the 12 months before the next general election of the territorial authority – clause 2(1)(c)).

A copy of every resolution that sets up a community must be sent to the Secretary for Local Government, the Surveyor-General, the Government Statistician, the Local Government Commission and the Remuneration Authority: clause 8(4). A copy must also be kept at the principal office of the territorial authority for free inspection by interested persons.

The boundaries of every community must coincide with the boundaries of the statistical meshblock areas that are used for parliamentary electoral purposes. This enables electoral rolls for community board elections to be drawn from parliamentary rolls: clause 2(2).

A community comes into existence on the day after the Electoral Officer declares the result of the first election of members of the board: clause 2(3).

UNITING, ALTERING OR ABOLISHING COMMUNITIES

A community may be abolished or united with another community, or its boundaries may be altered only in the following ways:

- by an Order in Council giving effect to a reorganisation scheme; or
- as part of the territorial authority’s representation review process (refer to the Commission’s booklet – “Guidelines to Assist Local Authorities in Undertaking Representation Reviews”).