

Memo

To: Local Government Commission

From: Michael Coles

Date: 18 November 2008

Subject: Proposal for the abolition of the Kaikoura District and its inclusion in the Hurunui District

Purpose

1. This report briefs you on processes and issues relating to the hearing of submissions on the proposal for the abolition of the Kaikoura District and its inclusion in the Hurunui District (“the proposal”).
2. Following the hearing, the Commission must:
 - a) review the information available to it, and consider whether further information is required in order to consider the proposal against the criteria set out below; and
 - b) decide whether to draft a reorganisation scheme to give effect to the proposal or some modification to the proposal, or to decline to proceed with it.
3. A hearing of the proposers, affected councils and submitters has been arranged for 2 and 3 December 2008 at the Kaikoura District Council main meeting room as follows:
 - from 12:30pm to 5:30pm on Tuesday 2 December; and
 - from 9am until approximately 4pm on Wednesday 3 December 2008.
4. A copy of the submissions has been previously circulated.
5. A draft schedule of speakers is attached (**Appendix 1**) together with:
 - a) the proposal initiated by a petition of more than 10% of the electors of the Kaikoura District (**Appendix 2**);
 - b) a summary of the submissions (prepared by Commission staff) (**Appendix 3**).
6. A finalised hearing schedule will be forwarded to you prior to the hearing.

Background

7. On 16 January 2008, the Local Government Commission received an elector-initiated petition in support of a proposal for the abolition of the Kaikoura District and its inclusion in the Hurunui District.
8. On 25 January 2008, the electoral officer of the Kaikoura District advised the Commission that the petition for the proposal had been signed by more than the required 10% of the electors of the Kaikoura District. It is therefore a valid petition for a proposal for abolition of a district under clause 1(3)(c) of Schedule 3 of the Local Government Act 2002 (the Act).
9. The petition provides the reasons for the proposal (see Appendix 2).
10. On 20 March 2008, the Commission appointed a representative of the electors, Mr Gordon Cockerell, as required under clause 36 of Schedule 3 of the Act.
11. On 12 August 2008, the Commission sought the views of the affected councils, Māori organisations, community and business groups, and central government agencies. It also invited public submissions on the proposal.
12. A total of 152 submissions were received by the submission closing date of 13 October 2008. A further five submissions were received after this date. The Commission has resolved to consider the late submissions on the basis that they do not raise additional substantive information and should be considered as part of its broader inquiries. Fifty submitters have indicated they wish to speak at the hearing.
13. The representative of the electors has reviewed the submissions and indicated that he wishes the Commission to proceed with consideration of the proposal.

Procedure following hearing

14. Clause 39 of Schedule 3 of the Act provides that after the Commission has met with interested parties and undertaken any further consultations and inquiries it considers appropriate, it must either:
 - a) prepare a draft reorganisation scheme based on the proposal, or on some modification or variation of the proposal resulting from the consideration of submissions, consultations, or inquiries; or
 - b) decide not to proceed with the proposal and give public notice accordingly.
15. If the Commission issues a draft reorganisation scheme it will then invite submissions on the draft scheme.

16. The Commission then considers submissions received on the draft scheme and decides whether to issue a final reorganisation scheme based on the draft scheme (with or without modifications) or to decline to proceed with the scheme.
17. If a final reorganisation scheme is issued, a poll of electors of the Kaikoura District will be held. A scheme is put into effect if a majority of those who vote in the poll are in favour of the final scheme.

Overview of submissions

18. A summary of the submissions has been prepared by Commission staff and is attached as Appendix 3.
19. Of the 152 submissions received, approximately:
 - 111 express opposition to the proposal;
 - 37 express support for the proposal; and
 - four express a neutral position on the proposal.
20. The five late submissions will be considered as part of the Commission's inquiries.
21. In general, submitters for the proposal suggest there are sufficient indicators to justify the Commission obtaining additional impartial advice, in particular regarding the operational and financial implications of the proposal.
22. In general, submitters opposed to the proposal suggest there is very little basis for proceeding with it, and that existing local council arrangements provide for proven local government effectiveness and efficiency that is appropriate to Kaikoura's distinct geography, history, and sense of residents' identity.

Criteria

23. The Commission must assess the proposal against criteria set out in clauses 3 to 7 of Schedule 3 of the Act. Broadly speaking, these criteria relate to good local government, boundaries and representation.

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

24. In order to proceed with it, the Commission must be satisfied that the proposal will:
 - (a) *promote good local government of the districts or regions concerned; and*
 - (b) *ensure that each local authority provided for under the proposal will:*

- (i) *have the resources necessary to carry out its responsibilities, duties and powers,*
 - (ii) *have a district or region appropriate for the efficient and effective performance of its role as specified in section 11 of the Act,*
 - (iii) *contain within its district or region a sufficiently distinct community of interest or sufficiently distinct communities of interests, and*
 - (iv) *be able to meet the requirements of section 76 of the Act, which relate to decision-making.*
25. The main criterion – ensuring the proposal will promote good local government – requires the Commission to consider whether the proposal will result in an improvement to the structure of local government. The proposed new structure of local government will need to result in councils that can give better effect to the role and purpose of, and principles relating to, local authorities. 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.
26. The purpose of local government, as outlined in section 10 of the Act, is:
- (a) *to enable democratic local decision-making and action by, and on behalf of, communities; and*
 - (b) *to promote the social, economic, environmental and cultural well-being of communities, in the present and for the future.*
27. When considering good local government, the Commission must also take into account the principles guiding how a local authority must perform its role. These principles are set out in section 14 of the Act, as follows:
- (1) *In performing its role, a local authority must act in accordance with the following principles:*
 - (a) *a local authority should—*
 - (i) *conduct its business in an open, transparent, and democratically accountable manner; and*
 - (ii) *give effect to its identified priorities and desired outcomes in an efficient and effective manner:*
 - (b) *a local authority should make itself aware of, and should have regard to, the views of all of its communities; and*
 - (c) *when making a decision, a local authority should take account of—*
 - (i) *the diversity of the community, and the community's interests, within its district or region; and*

- (ii) *the interests of future as well as current communities; and*
- (iii) *the likely impact of any decision on each aspect of well-being referred to in section 10:*
- (d) *a local authority should provide opportunities for Māori to contribute to its decision-making processes:*
- (e) *a local authority should collaborate and co-operate with other local authorities and bodies as it considers appropriate to promote or achieve its priorities and desired outcomes, and make efficient use of resources; and*
- (f) *a local authority should undertake any commercial transactions in accordance with sound business practices; and*
- (g) *a local authority should ensure prudent stewardship and the efficient and effective use of its resources in the interests of its district or region; and*
- (h) *in taking a sustainable development approach, a local authority should take into account—*
 - (i) *the social, economic, and cultural well-being of people and communities; and*
 - (ii) *the need to maintain and enhance the quality of the environment; and*
 - (iii) *the reasonably foreseeable needs of future generations.*
- (2) *If any of these principles, or any aspects of well-being referred to in section 10, are in conflict in any particular case, the local authority should resolve the conflict in accordance with the principle in subsection (1)(a)(i).*

28. Sections 76 to 82 of the Act set out the principles and requirements needed for local authority decision-making and consultation. Broadly speaking, these sections of the Act reinforce the principles set out above.

29. When considering the criteria specified for a reorganisation proposal, the Commission, under clause 3(2) of Schedule 3 of the Act, must take into account:

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

Boundaries (Clause 4 of Schedule 3)

30. In determining the boundaries under a proposal or scheme, the Commission, must ensure that (if practicable):
- *the boundaries of regions conform with catchment boundaries; and*
 - *the boundaries of districts conform with the boundaries of regions.*
31. 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.
32. In practical terms, the Commission 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 can issue a reorganisation scheme, however, they must conform.

Representation (Clause 5 of Schedule 3)

33. When considering a proposal or a scheme, the Commission must ensure that the membership of a local authority will:
- *provide fair and effective representation for individuals and communities of that 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.*

Information requirements

34. The hearing of submissions is an important part of the information gathering process. The Commission has previously identified, in addition to the statutory criteria, the following factors for consideration to assist it in information gathering in relation to reorganisation proposals:
- a) Community of interest, including:
- i. the perceptual dimension: *is there a strong sense of belonging to or identification with the area concerned?*
 - ii. the functional dimension: *is there an ability to meet with reasonable economy, the community's requirements for comprehensive physical and human services?*
 - iii. the political dimension: *is the elected body able to represent the interests and reconcile the conflicts of all members?*

- b) Planning: *what long-term and annual planning processes are in place including engagement with the community?*
- c) Financial sustainability: *are there appropriate plans and capacity to meet the long-term financial needs of the community?*
- d) Service delivery: *what arrangements are in place to meet present and future demands for services from the community?*
- e) Representation arrangements: *what are the present representation arrangements and will these meet future needs and expectations?*
- f) Governance processes, community engagement and participation: *what governance processes are in place to meet present and future community needs and expectations?*
- g) Management and organisational issues: *what is the present management and organisational capacity of the council?*

Commissioners may wish to use these factors when considering issues raised by the submitters on the proposal.

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