



LOCAL GOVERNMENT COMMISSION
MANA KĀWANATANGA Ā ROHE

**Decision on Proposal for the
Union of Nelson City and Tasman District**

13 June 2011

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Introduction

1. This document sets out the findings and decision of the Local Government Commission (the Commission) on an elector-initiated reorganisation proposal (the proposal) for the union of Nelson City and Tasman District.
2. The statutory process for considering such proposals is set out in Part 1 of Schedule 3 of the Local Government Act 2002 (the LGA). The decision is required by clause 39 of Schedule 3.

Background

3. A petition seeking the union of Nelson City and Tasman District was lodged with the Commission by Aldo Miccio on 31 March 2010. On 3 May 2010, the electoral officer for Nelson City and Tasman District advised that the number of signatories did not meet the threshold to initiate a reorganisation proposal (i.e. while it was signed by more than the required 10% of the electors of Nelson City, it was not signed by 10% of the electors of Tasman District).
4. Additional Tasman District electors subsequently signed the petition, which was lodged for a second time with the Commission on 6 July 2010. On 19 July 2010, the electoral officer confirmed that the number of signatories exceeded the threshold to initiate a reorganisation proposal (i.e. it was signed by at least 10% of the electors of Tasman District and at least 10% of the electors of Nelson City).
5. On 31 August 2010, the Commission, under clause 36 of Schedule 3 of the LGA, appointed Aldo Miccio as 'representative of electors' in relation to the proposal.
6. The Commission publicly notified the proposal on 9 September 2010 and called for submissions by 8 November 2010. A total of 451 submissions were received by the closing date (including one submission – a 'Hands Off Tasman' ('HOT') petition – in opposition to the proposal signed by 3,510 people).
7. Of the 451 submissions received on time, approximately 57% opposed the union proposal. One percent expressed no view and the remaining submitters either supported the concept of the union proposal, or supported the Commission proceeding further with it by undertaking investigations/studies and/or issuing a draft reorganisation scheme "as a basis for further community consultation"). A brief summary of points raised in submissions and the subsequent hearings is attached as *Appendix 1*.
8. A further five late submissions were received after the deadline. The Commission resolved to accept these late submissions on the basis that no new substantive issues were raised in them.

9. The representative of electors was provided with a copy of the submissions and the opportunity to withdraw the proposal, pursuant to clause 38 of Schedule 3 of the LGA. On 3 December 2010, the representative advised that he wanted the Commission to proceed with the proposal.
10. The Commission held hearings for those submitters wishing to speak to it at Murchison, Nelson, Richmond, Motueka and Takaka on 14, 15, 16, 17 and 18 December 2010. A list of speakers at the hearings is attached as *Appendix 2*.
11. As a result of its consideration of the submissions received and matters raised at the hearings, the Commission decided further information was required and undertook some further consultation and inquiries.
12. Following the completion of the further consultation and inquiries, the Commission is required under clause 39 of Schedule 3 of the LGA, to decide:
 - a. whether to prepare a draft reorganisation scheme based on the proposal or on some modification or variation of the proposal resulting from consideration of the submissions, consultations or inquiries; or
 - b. not to proceed with the proposal.
13. This report sets out that decision and the reasons for the decision.

Process-related issues raised in submissions

14. The initial petition submitted to the Commission did not have the required 10% of Tasman District electors and was subsequently resubmitted when this was achieved. When the Commission was advised that insufficient Tasman District electors had initially signed the petition it sought legal advice on whether additional signatures could be added to the petition to achieve the required 10%. On the basis of the advice received, we accepted the petition as resubmitted with the required 10% of signatures.
15. Some submitters believed the Commission should undertake investigations/studies “as a basis for further consultation”. This was also the tenor of the wording on the petition. We comment that, on the basis of legal advice previously given to it, the Commission can only consider the proposal as submitted including minor modifications or variations. It is not able to consider alternatives to the proposal such as a boundary alteration, in this case between Nelson City and Tasman District, or another form of structure such as re-establishment of a regional council for the area.

Description of Nelson City and Tasman District

Location and geography

16. Nelson City and Tasman District are located in the north-west corner of the South Island. The combined area stretches from the Whangamoia Ranges (at the boundary with Marlborough District) in the east, to the Spencer Mountain Ranges south of Murchison and Saint Arnaud, to Golden Bay in the north-west. Tasman Bay is to the north.
17. The boundary between Nelson City and Tasman District is situated on Champion Road between the urban areas of Richmond (in Tasman District) and Stoke (in Nelson City).
18. Tasman District covers a land mass of approximately 9,643 square kilometres characterised by diverse coastal, mountainous, plain, valley and river landscapes.¹ It includes a further approximate 5,169 square kilometres of coastal area.² Nelson City covers a land mass of 432 square kilometres with a further approximate 803 square kilometres of coastal area. The city is predominantly urban but includes some rural land and reserve, park and forest areas.

Population

19. At the 2006 census, the usually resident population of Tasman District was 44,625. Statistics New Zealand has estimated the population of the district, as at June 2010, to be 47,350. At the 2006 census, the usually resident population of Nelson City was 42,891. The Statistics New Zealand population estimate for the city, as at June 2010, is 45,500.

Structure of local government

20. Nelson City and Tasman District were established as part of nationwide local government reforms in 1989. A regional council for the combined areas of Nelson City, Tasman District, Marlborough District and Kaikoura District was also established in 1989 but subsequently abolished in 1992. As a consequence of the 1992 decision, the first three councils were reconstituted as unitary authorities (i.e. territorial authorities also responsible for carrying out regional council functions).
21. Nelson City was constituted in 1989 with four wards but these were abolished with effect from the 1992 elections, and elections have been held 'at large' ever since. Tasman District was constituted with six wards in 1989 and these have subsequently been modified to five wards as follows: Golden Bay, Lakes-Murchison, Motueka, Moutere-Waimea and Richmond.

¹ Approximately 58% of the district is national park.

² As unitary authorities responsible for both territorial and regional council functions, the boundaries of Nelson and Tasman Regions extend 12 miles offshore (though the Nelson City boundary extends only to the mean high water mark).

22. Community boards were established in Tasman District in 1989 for Golden Bay and Motueka and these are still in existence.
23. For further details on the history and present structure of local government in the Nelson-Tasman area see the *Background Report*.

Criteria for consideration of proposal

24. In order to proceed with the proposal, the Commission must be satisfied, in terms of clause 3 of Schedule 3 of the LGA, that it 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 enable it to carry out its responsibilities, duties and powers; and*
 - (ii) *have a district or region that is appropriate for the efficient and effective performance of its role as specified in section 11 of the Act; and*
 - (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. When considering the above criteria, the Commission is required to take into account:
 - (a) *the area of impact of the responsibilities, duties, and powers of the local authorities concerned; and*
 - (b) *the area of benefit of services provided; and*
 - (c) *the likely effects on a local authority of the exclusion of any area from its district or region; and*
 - (d) *any other matters that it considers appropriate.*
26. The Commission has previously recorded that, in the context of the legislation, it believes that the main criterion – ensuring that the proposal will promote good local government – requires it to consider whether the proposal will result in *improved* local government arrangements in the area. These arrangements will need to result in local authorities that can give *better effect* to the role and purpose of, and principles relating to, local authorities. These elements of good local government are set out in sections 10, 11 and 14 of the LGA.
27. We note that in relation to improved local government, the LGA requires assessment of not only current arrangements but also the most effective

long-term arrangements. In particular we note the principle identified in section 14(h) of the LGA for local authorities to take a sustainable development approach in relation to: the social, economic, environmental and cultural well-being of the community; the need to maintain and enhance the quality of the environment; and the reasonably foreseeable needs of future generations. An important part of our consideration, therefore, is assessment of the capacity of the current two-council structure to achieve this principle compared to the proposed combined council for the Nelson-Tasman area.

28. In this report, we address the statutory requirements and criteria in relation to the proposal in terms of the following questions³:
- a. what is the role of a local authority?
 - b. if a union were to proceed, would the new local authority:
 - i. have a *more appropriate* district/region for efficient and effective performance of its role (*cl. 3(1)(b)(ii) Schedule 3 LGA*) in relation to:
 - planning for the immediate and long-term needs of its community/communities?
 - delivery of council services?
 - ii. have *enhanced* resources necessary for the carrying out of its responsibilities, duties and powers (*cl. 3(1)(b)(i)*) in relation to:
 - organisational/management capacity?
 - financial capacity?
 - iii. be in a position to provide *enhanced* governance of the district/region in relation to:
 - a distinct community/communities of interest (*cl. 3(1)(b)(iii)*)?
 - local representation?
 - decision-making requirements (*cl. 3(1)(b)(iv)*)?

Role of a local authority

29. The role of a local authority (section 11 of the LGA) is to:
- a. give effect to the purpose of local government which is as follows:
 - i. to enable democratic local decision-making and action by, and on behalf of, communities

³ These questions incorporate the seven questions the Commission posed when it called for submissions on the proposal.

- ii. to promote the social, economic, environmental, and cultural wellbeing of communities, in the present and for the future
 - b. perform the duties, and exercise the rights, conferred on it by the LGA and other enactments (such as the Resource Management Act 1991 and the Land Transport Act 1998).
- 30. To enable democratic decision-making and action by and on behalf of communities and to promote community well-being, requires identification of the communities concerned. We address communities of interest in the Nelson-Tasman area first. In the following section we address local authority performance of its role, duties and responsibilities.

Communities of interest

- 31. Submitters identified four levels of community they perceived to exist in the Nelson-Tasman area and to which they felt, to varying degrees, a sense of belonging and affinity. These levels, which are not mutually exclusive, were: local settlement, ward/community board, district and the combined Nelson-Tasman area.
- 32. A number of submitters from Tasman District referred to 17 settlements, identified by Tasman District Council (TDC) for planning purposes, as representing their sense of community.⁴ Perceptions of community at this level were influenced by factors such as geography, the distance between settlements, the location of primary schools, commercial and recreational facilities, community newsletters/newspapers, community organisations, and shared values and experiences. Submitters stressed the importance of sense of community identity and promotion of community resilience at the local settlement level and expressed concerns that these would be lost under the proposal. We note the durability of the Tasman District ward system of representation, based on local communities of interest, and agree this or a similar system would need to be retained if the proposal were to proceed.
- 33. In relation to Nelson City, Nelson City Council (NCC) staff suggested local community groups tended to form around particular issues rather than on a geographical basis, though they did identify some 'community hubs'.⁵ On this basis, community of interest may be seen more at the city level in Nelson which is reflected in the present 'at large' representation structure for the relatively cohesive urban community.

⁴ The 17 settlements identified are Takaka, Collingwood and Pohara/Ligar Bay/Tata/Tarakohe within Golden Bay Ward; Murchison, St. Arnaud and Tapawera within Lakes-Murchison Ward; Motueka, Kaiteriteri, Marahau and Riwaka within Motueka Ward; Upper Moutere, Tasman, the Coastal Tasman area, Mapua/Ruby Bay, Brightwater and Wakefield within Moutere-Waimea Ward; and Richmond.

⁵ These 'community hubs' include Stoke, Tahunanui, the Nelson CBD, Atawhai, Victory Square, The Wood and Hira.

34. Many submitters from Tasman District perceived a clear distinction between 'rural Tasman' and 'urban Nelson', although some did perceive a distinction between 'urban Richmond' and the remainder of Tasman District. We acknowledge the strength of perceptions relating to local communities in Tasman District including their rural nature. We believe it is important, however, to note a number of social and economic factors that are impacting on perceptions of a traditional rural-urban divide and will continue to do so. These factors, described in more detail in the *Background Report*, include migration trends in, out and within the Nelson-Tasman area; urban expansion particularly in the Richmond-Nelson area; changing rural perspectives including the popularity of 'rural lifestyle' living; factors impacting on the rural economy such as increased mechanisation leading to reduced demand for labour; and economic pressures on small townships impacting on provision of services and employment opportunities.
35. In addition to the impacts on residents' perceptions of distinct communities of interest in the Nelson-Tasman area, there are a range of cross-boundary activity patterns that we believe will further impact on these perceptions. One such activity pattern is place of work. In the *Background Report* we note the numbers of Nelson and Tasman residents employed across the boundary in the other district (2,136 Nelson residents and 4,962 Tasman residents as at the 2006 census). The high population growth in the Richmond-Nelson urban area saw a significant increase in this cross-boundary pattern between the 2001 and 2006 censuses (an additional 396 Nelson City residents and 1,227 Tasman residents working across the boundary). We believe this pattern of increasing cross-boundary employment is likely to continue in the foreseeable future.
36. Other cross-boundary activity patterns which, to a greater or lesser extent, reflect a blurring of the legal boundary between Nelson City and Tasman District include health services, schooling, shopping and sport and recreation. The *Background Report* discusses these in more detail.
37. We note there are a number of shared service arrangements between the NCC and the TDC reflecting a more 'regional' catchment for the delivery of particular services. These arrangements include the Saxton Fields recreation facilities, Nelson Provincial Museum, civil defence and emergency management services, the operation of the Bell Island sewage treatment plant, Port Nelson Ltd, Nelson Airport Ltd and Tourism Nelson Ltd.
38. There is a broad consensus, including among many of those opposed to the proposal, that Nelson-Tasman comprises one regional economy. This is typically described in terms of Tasman District being the 'engine room' of the economy and Nelson City being the location of essential support and infrastructure services such as the port and airport to service the regional economy. The second Nelson-Tasman regional economic development strategy produced by the Nelson Regional

Economic Development Agency in December 2007, describes in detail the features of the Nelson-Tasman regional economy including key economic drivers, opportunities and constraints in relation to both the 'engine room' and supporting services for the regional economy. These features are summarised in the *Background Report*.

39. In summary, we acknowledge strongly felt perceptions about local communities of interest, particularly in Tasman District. At the same time we note a number of factors pointing to the need for more regional focus in the Nelson-Tasman area. These factors include a blurring of the distinction between rural and urban, the extent of cross-boundary activities, and the widely recognised existence of a regional Nelson-Tasman economy. We note the councils themselves have recognised common regional interests in their statements of community outcomes and priorities as set out in their 2009-19 long-term council community plans (these statements are reprinted in the *Background Report*).
40. Given the increasing importance of regional activities to the promotion of community well-being in Nelson-Tasman, consideration needs to be given to ensuring the most appropriate local authority structures are in place to address regional issues and realise opportunities for both present and future generations. We address the efficiency and effectiveness of current structural arrangements in relation to regional issues and opportunities in the following sections of this report.

Appropriate district/region for performing local authority role

41. Clause 3(b)(ii) of Schedule 3 of the LGA requires assessment of whether the proposal will provide a district/region that enables more efficient and effective performance of the role of the local authorities concerned. In this section we identify important factors and trends needing to be addressed in the Nelson-Tasman area and then we consider current performance in key elements of the local authority role.

Nelson-Tasman trends and development

42. A high proportion of population growth in Nelson-Tasman has occurred in the Richmond-Nelson urban area, spilling over into the Coastal Tasman/Waimea crescent of communities. Between 2001 and 2006, approximately 95% of total Tasman District population growth occurred within Richmond (additional 1,425 residents) and Waimea-Moutere (additional 1,671 residents) Wards. At the same time, residential growth in Nelson City is tending south towards Richmond and this raises questions about the appropriateness of the current Champion Road boundary.
43. The pattern of population growth in Nelson-Tasman – an increasing concentration of population in the main urban area – is consistent with national and international trends, and will almost certainly continue. The TDC's growth modelling work projects that the population of the

Richmond Ward alone will increase from a Statistics New Zealand estimated 15,350 in 2010, to an estimated 27,100 by 2031.

44. Largely as a result of migration into the area, the population of Nelson-Tasman is now more diverse and, in line with national trends, there is an aging population. Housing affordability and associated transport costs have been identified as some of the issues needing to be addressed. In addition, and as noted, cross-boundary commuter flows have increased with the expansion of Nelson, Richmond and the wider Waimea area. This is resulting in more pressure on the roading network and demand for more public transport services.
45. The 2007 regional economic development strategy made a number of recommendations in response to population and growth trends and on development opportunities including the need for an efficient transport network, effective management of water resources, sustainable development and optimising tourism potential. It identified the supply of appropriately zoned retail, commercial and industrial land as a key requirement in achieving the region's economic potential. While steps have been taken to address these issues, increasing residential and commercial/industrial development within the Richmond and Waimea areas in particular will increase the challenges and test capacity to respond.
46. Effectively managing the impact of growth on land, sea, air and freshwater ecosystems is critical to the well-being of the Nelson-Tasman community. There is increasing community and business awareness of the need to maintain and enhance the quality of the environment in relation to, for example, impacts on the Waimea Inlet, Tasman Bay and DOC-administered land. There is also a need for awareness of environmental impacts arising out of opportunities in areas such as regional tourism, 'eco-branding' initiatives and aquaculture.

Planning

47. We acknowledge statements from a range of parties to the effect that long-term planning is effective and transparent in both Tasman District and Nelson City, and that the councils are meeting their planning obligations in respect of the Resource Management Act 1991 (RMA). This may be the case in respect of city/district planning responsibilities. We question, however, whether council planning has a sufficient focus on the regional issues and opportunities we and others have identified given two separate Nelson and Tasman regional policy statements.
48. The purpose of a regional policy statement, under section 59 of the RMA, is to provide an overview of the resource management issues of the region, and policies and methods to achieve integrated management of the natural and physical resources of the region. Regional and district plans must give effect to the regional policy statement for their region

(sections 67(3)(c) and 75(3)(c) of the RMA).⁶ Because NCC and TDC are unitary authorities their regional policy statements apply only to their own city/district and, as a result, there is no unified overview on regional issues and no single set of policies or methods to address these issues.

49. The NCC and TDC are on different cycles for the review of their regional policy statements. The Nelson Regional Policy Statement was due for review in 2007 but has been indefinitely postponed. The Tasman Regional Policy Statement is due for review by 1 July 2012 and we understand the TDC has resolved to investigate the merger of the Tasman Regional Policy Statement and Resource Management Plan. There appears little scope for the two councils to consider adopting a joint approach to the adoption of one regional policy statement for Nelson-Tasman.
50. Prior to 2007 there was a combined land transport planning committee for Nelson-Tasman. The committee split into separate committees for the city and district as a result of frustration over priorities for the two areas. We were advised that the separate committee structure is working well given the different priorities of the city and district, while recognising the common interest in the arterial road link to the Port of Nelson. As noted earlier, we believe the 'distinctly different (urban/rural) character' of the two areas, as described to us, will lessen over time and therefore priorities will tend to coalesce. This will particularly be the case in the growing Richmond-Nelson urban area. Pressures on the arterial link between the two areas will increase and these will need to be managed from a regional point of view along with related activities such as increased provision of public transport. We believe one unified regional land transport strategy for the combined Nelson-Tasman area will become increasingly important.
51. We believe legislative tools such as the regional policy statement and the regional land transport strategy, coupled with non-statutory regional growth strategies, can be used to enhance long-term, integrated urban form, transport, and services and facilities planning. This will enable growth to be managed in a sustainable way in accordance with the shared values, priorities and preferences of the regional community. Examples of a coordinated approach to address urban and coastal growth issues are seen in the Western Bay of Plenty and Greater Christchurch areas.
52. We note that the NCC and the TDC are the only unitary authorities in New Zealand where council boundaries separate a predominantly rural area from a predominantly urban one. No regional council boundaries do so and city and district council boundaries in many areas encompass

⁶ This provision, which was introduced via the 2005 amendments to the RMA, only comes into effect however once the relevant provisions of the regional policy statement have been reviewed and/or changed and made operative (sections 65(6) and 73(4)).

both rural and urban areas.⁷ In these circumstances, we believe a shared or common approach to planning, recognising the complementary and interrelated nature of the urban and rural areas, would be appropriate to assist performance of the local authority role in Nelson-Tasman.

53. We acknowledge that NCC and TDC staff have demonstrated an ability to work together on regional planning issues, though this tends to be on specific focused projects (e.g. Nelson South-Richmond East development), or where one council takes responsibility for an activity (e.g. pest management). In addition, the councils have, to varying degrees, supported a range of regional and/or cross-boundary initiatives, for example the regional economic development strategy, the Waimea Inlet strategy, the regional arts strategy, and the regional facilities forum. For these strategies to have full effect on a truly regional basis requires the commitment of both councils. Such commitment will always be dependent on the decision-making processes, priorities and funding commitments of two separate bodies accountable to two different communities defined by the existing local government boundaries in the Nelson-Tasman area.
54. In summary, we believe a more regional approach to planning is required in the Nelson-Tasman area and that present arrangements, in many respects, represent a missed opportunity. For example, one regional policy statement and one regional land transport strategy will enable an integrated approach to land-use and transport planning for the region as a whole. A truly regional approach will enable issues arising as a result of population growth, economic development and environmental pressures to be addressed in a coordinated and sustainable manner. Such an approach will also provide opportunities for the regional community, including key stakeholders, to have a clear mechanism for input.

Service delivery

55. As noted above, the two councils have agreed to jointly provide some services to the combined area. Many submitters, both for and against the proposal, identified Saxton Fields as an example of successful collaboration between the two councils. Part of this success is attributed to the Saxton Fields funding agreement. This agreement sets out a 60:40 capital funding split between the councils based on an agreed area of benefit for services provided (based on the population of all Nelson City and the population of Tasman District minus the Golden Bay, Motueka and Lakes-Murchison areas). We understand the agreement should have been reviewed after the 2006 census but this has not occurred. This highlights an issue of concern in that there is

⁷ We note that the *complementary* nature of urban and rural communities, as opposed to entrenched distinctions between the two, was one of the drivers behind the structural reforms of local government in 1989 with the introduction of district councils combining former urban-focused borough councils and rural-focused county councils.

often a lack of immediate incentive for one or other council to commit in a timely way to regional policy development, funding and delivery decisions.

56. We believe there is scope for significantly more collaboration reflecting the commonalities of the two areas and to provide savings and/or enhance services based on the capacity of the combined organisations. One area where a joint approach would be beneficial, as acknowledged by the councils themselves, is that of waste minimisation and management including planning and development for a combined landfill and a common charging policy.
57. We are required by the statutory criteria to consider the area of benefit of services provided to the community. Given the growth and development patterns outlined above, we believe more joint responsibility for service delivery will be required. This will have the benefit of reflecting a closer relationship between those who benefit and those who pay.
58. We acknowledge current initiatives being undertaken by the councils in the 'top of the south' in relation to shared services. However shared services have been and are likely to continue on a limited case-by-case basis and are dependent on co-ordinated decision-making by the councils to fully realise potential benefits.

Resources necessary for carrying out responsibilities, duties and powers

59. Clause 3(b)(i) of Schedule 3 of the LGA requires assessment of whether the proposal will result in the resources necessary for the carrying out of local authority responsibilities, duties and powers.
60. As unitary authorities, NCC and TDC carry out a full range of territorial authority responsibilities, duties and powers as well as those of regional councils. Both councils are generally performing these well. We note, for example, audits and reviews of council planning processes have not raised issues of concern and have been complimentary in a number of cases.
61. We contracted Strateg.Ease Ltd. to investigate and report on the capacity of both councils to maintain and enhance levels of service for key infrastructure activities and their financial position and policies. A copy of this report is available from the Commission.
62. The report concluded that both councils are in a sound financial position and they have the ability to cover additional investment in assets and increased operating expenditure associated with the rates of population growth projected for their areas. The report also noted that a combined council would have significantly greater financial strength than the councils separately. We believe enhanced financial capacity would be beneficial to the residents of Tasman District in particular to address

concerns about issues such as water supply and drinking water standards in certain areas. It would also facilitate enhanced community resilience in the face of emergencies and disasters.

63. The report identified some limited but positive economies of scale that could be achieved in the provision of network infrastructure services for water, wastewater and transport. It also identified potential efficiency gains from a union through management and staff savings, offset to some extent by modest increases in costs of democratic representation. In addition, the report noted significant gains would be tempered by costs associated with low density and spatially dispersed water, wastewater and other services. These are matters that a council for the combined area would have to address if the proposal were to proceed.
64. The report identified three areas where the different approaches of the two councils would need to be addressed if a combined council were to be established. These areas are: development contribution charges, valuation for rating purposes (NCC uses land value and TDC uses capital value) and rating policies including the balance of general rates, differential rating and targeted rates.
65. We believe the argument for a union does not rest primarily on financial savings but rather on the addressing of regional issues and opportunities, and having the financial and organisational capacity to do so.

Governance of the district/region

66. In addition to promoting community well-being in the present and for the future, the purpose of local government is also to enable decision-making and action by and on behalf of communities. This is the responsibility of two councils in the Nelson-Tasman area and accountability is to the separate communities of Nelson City and Tasman District. In relation to the proposal, we need to consider whether a single council would more effectively represent distinct community/communities of interest in the area (clause 3(1)(b)(iii) of Schedule 3 of the LGA) and allow for more efficient and effective decision-making and action by and on behalf of these communities.

Regional community of interest

67. We have argued that there is a distinct Nelson-Tasman regional community of interest but there is no accountability mechanism for decisions and action on behalf of the regional community. The two councils in Nelson-Tasman are unitary authorities and as a result the legislative tools available in other areas to ensure that councils effectively co-ordinate and communicate on regional issues are not available in relation to Nelson-Tasman as a whole. These legislative tools include the regional policy statement and regional land transport strategy, as well as the requirement for a triennial agreement between

the local authorities in a region as provided for under section 15 of the LGA.

68. The lack of formal mechanisms for reconciling divergent regional community views in Nelson-Tasman results in total reliance on co-ordinated decision-making by the separate councils to achieve desired regional outcomes. This creates uncertainty as the two councils are solely accountable to city and district communities with distinct community funding pressures and priorities.
69. A number of submitters expressed frustration at the present local government structural arrangements in relation to a lack of overall regional vision and coherent approach, and/or in terms of duplication of effort required for residents and interest groups to submit their views. These groups included local iwi, the Chamber of Commerce and the Road Transport Association. The absence of a unified strategic regional approach to maximise the opportunities and potential of the combined area was also highlighted in our discussions with central government and other agencies.⁸
70. We note Māori tribal authorities span the wider Nelson-Tasman area and do not align with local authority boundaries. We believe the expected completion of the Treaty of Waitangi settlement process may well result in even greater frustration for local Māori than currently being experienced. This is because of the need for greater engagement by local government in the Nelson-Tasman area to progress iwi economic development activities, as well as responding to the kaitiaki status of manawhenua iwi under environmental legislation. We believe there is a need for a more effective structure to engage local iwi and foster their kaitiaki status and to avoid the present duplication of efforts required of iwi in response to the varying council positions on issues of concern to iwi.

Local communities of interest

71. We have argued that there is a distinct Nelson-Tasman regional community of interest. This is not to say that there are not distinct local communities of interest within the wider area as well. We described communities of interest earlier in this report including those at the local settlement level in Tasman District. We need to consider how well these local communities of interest are represented by the current local government structure.
72. As noted earlier in this report, we believe Nelson City is a relatively cohesive urban community as reflected in the fact it has held its elections 'at large' since 1992. Tasman District, on the other hand, has a number of clearly distinct communities of interest reflected in its ward

⁸ A list of agencies we spoke to as part of our inquiries is provided in the *Background Report*

system of representation. These communities need to be considered separately.

73. Richmond is an urban community with a high rate of population and business growth. This growth is, in part, a consequence of its immediate proximity to Nelson City. Decision-making relating to land use, transport, and many services and facilities within the Richmond area will often have significant flow-on implications for residents and businesses located in Nelson City.
74. Richmond and smaller communities in the Waimea crescent (i.e. Mapua to Wakefield) share a recognisably stronger level of connection to the district's main urban centre than the remainder of Tasman District. The funding arrangements for Saxton Fields reflect this distinction within Tasman District as do workplace commuter patterns. In many other respects, such as sense of local identity, proximity, distance, landscape and local services/facilities, the communities comprising the Moutere-Waimea Ward are clearly distinct from Richmond.
75. Communities within the Golden Bay, Motueka and Lakes-Murchison Wards share important connections with both Richmond and the wider Nelson-Tasman area. However, these communities are more self-contained and less directly affected by cross-boundary issues associated with the growth of the main urban centre. Their self-containment is reinforced by factors such as the distance between communities, geographical features, catchments for a range of health, education and commercial and recreational services and employment patterns.
76. We do not believe the present governance arrangements for Tasman District best reflect these different relationships between the wards and with the wider Nelson-Tasman area. For example, these arrangements need to take account of the impact of Richmond's population growth and proximity to Nelson City on the future governance of communities within the Lakes-Murchison, Motueka and Golden Bay areas. We believe introduction of an area-wide second tier decision-making structure would better recognise the diversity of local communities in the area and allow local issues to be addressed locally. Such a structure would also allow the main governance body to focus on district-wide issues and concerns. We note a possible reflection of concern with the current governance arrangements in the district was that over 80% of submitters on the proposal from Golden Bay either supported the proposal or supported the Commission proceeding further with it.
77. In summary we do not believe the present governance structure in Nelson-Tasman best represents either the increasingly important regional community of interest or the quite distinct local communities of interest. We believe an area-wide governing body elected on a ward basis reflecting distinct communities of interest, and accompanied by a strong area-wide second tier of advocacy and decision-making bodies,

would better represent the interests of all levels of community of interest and provide for more effective and accountable decision-making now and in the future. We address representation issues in the next section and then decision-making in the following section.

Local representation

78. Submitters made it clear that any reorganisation scheme must address concerns about representation at the local level. We agree that representation of local communities of interest is critical for a local authority to effectively carry out its statutory role. In light of the distinct communities of interest and different relationships between the communities within Tasman District, and the historically separate recognition of Nelson City, we believe a ward system for electing members to an area-wide governing body would be appropriate and the existing wards of Tasman District are a good starting point.
79. In determining the membership of a local authority as a consequence of a reorganisation scheme, clause 5 of Schedule 3 of the LGA provides that the Commission must:
 - a. *provide fair and effective representation for individuals and communities of that local authority; and*
 - b. *comply with the requirements of the Local Electoral Act 2001; and*
 - c. *take into account the responsibilities, duties, and powers of that local authority.*
80. For the purpose of achieving fair representation, section 19V(2) of the Local Electoral Act 2001 (LEA) requires that the population of each ward divided by the number of members to be elected by that ward produces a figure no more than 10% greater or smaller than the population of the district divided by the total number of elected members ('the +/-10% rule'). Clause 19V(3)(a) of the LEA provides greater flexibility in circumstances where application of section 19V(2) will not achieve the effective representation of communities of interest within isolated communities.
81. As the NCC and TDC are unitary authorities, a combined council would assume the responsibilities, duties and powers of a unitary authority. To determine the appropriate number of councillors for a combined council, we considered the number of councillors currently on the NCC and TDC (12 and 13 councillors respectively) and the numbers on other unitary authorities around the country. In addition, we noted the governance principle set out in section 39(c) of the LGA relating to separation of regulatory and non-regulatory responsibilities and decision-making. As a result, we considered options of 16, 17 and 18 councillors for a combined council (see *Appendix 3* for calculations on the number of councillors per ward to meet the '+/-10% rule' under each option).

82. The existing Golden Bay Ward of Tasman District does not currently comply with the '+/-10% rule'. The Commission has previously agreed with the TDC that, as a consequence of its distinctiveness and geographical isolation, Golden Bay requires specific representation. We believe this remains the case and that a Golden Bay Ward in a combined district, as an exception to the '+/-10% rule', can be justified on the grounds of isolation.
83. A Lakes-Murchison Ward would have to include large parts of the Waimea Plains extending to Richmond and Mapua, in order to comply with the '+/-10% rule' in a combined district with 16, 17 or 18 councillors. We believe this would make it difficult for councillors representing that larger ward to properly engage with the local community. As a combined district would increase the proportion of urban-based residents, we believe it is important, in the interests of the district as a whole, that the views and interests of distinct rural communities are represented at the council table. For these reasons, and in light of additional information received, we propose to restore the boundary of the Lakes-Murchison Ward to align with the southern boundary of the Wai-iti area unit. In a large combined district, we believe this ward can be seen to be isolated particularly from the main Richmond-Nelson urban area and therefore an exception to the '+/-10% rule' can be justified.
84. We examined a number of options for ward boundaries for Motueka, Waimea-Moutere, Richmond and Nelson, none of which completely met both the statistical and community of interest criteria. However one option, based on 16 councillors, was identified that achieves near compliance using 2010 population estimates and, using population projections, would achieve compliance by 2016. This option involves the following changes:
- Tasman Village and its immediate vicinity being moved from the Moutere-Waimea Ward to the Motueka Ward
 - an area north of Champion Road being moved from the Nelson Ward to the Richmond Ward.
85. We note that clause 59(1)(f) of Schedule 3 of the LGA states that a reorganisation scheme may provide that, for a period of not more than 3 years, the membership of a ward constituted by that scheme need not comply with section 19V of the LEA (i.e. the '+/-10% rule').
86. Bearing in mind all the statutory requirements, we believe a council comprising a mayor and 16 councillors would enable effective representation of communities of interest in the combined district. It takes into account the council's role in providing both territorial authority and regional council functions (i.e. a unitary authority) and the consequential need for separation of regulatory and policy functions. In addition, a council of this size takes into account our proposals in relation to community boards and the powers and delegations to the boards that we propose.

87. The relationship between these decisions on wards, the number of councillors per ward, and the population requirements of section 19V(2) of the LEA, is illustrated in the following tables.

2010 Population Estimates

	Population	Members	Population- Member Ratio	Difference from Quota	% Difference from Quota
Wards					
Golden Bay Ward	4,890	1	4,890.00	-913.13	-15.74
Lakes-Murchison Ward	2,510	1	2,510.00	-3293.13	-56.75
Motueka Ward	11,620	2	5,810.00	6.88	0.12
Moutere-Waimea Ward	12,980	2	6,490.00	686.88	11.84
Richmond Ward	15,500	3	5,166.67	-636.46	-10.97
Nelson Ward	45,350	7	6,478.57	675.45	11.64
	92,850	16	5,803.13		

2016 Population Projections

	Population	Members	Population- Member Ratio	Difference from Quota	% Difference from Quota
Wards					
Golden Bay Ward	5,219	1	5,219.00	-1,008.88	-16.20
Lakes-Murchison Ward	2,551	1	2,551.00	-3,676.88	-59.04
Motueka Ward	12,536	2	6,268.00	40.13	0.64
Moutere-Waimea Ward	13,548	2	6,774.00	546.13	8.77
Richmond Ward	18,742	3	6,247.33	19.46	0.31
Nelson Ward	47,050	7	6,721.43	493.55	7.92
	99,646	16	6,227.88		

Decision-making

88. We believe a council comprising a mayor and 16 councillors is an appropriate size to meet decision-making requirements for a unitary authority responsible for the combined Nelson-Tasman area. We believe it is also a size that will enable the new council to meet the decision-making requirements of section 76 of the LGA (in line with the requirement set out in clause 3(1)(b)(iv) of Schedule 3 of the LGA).
89. We note that other existing governance structures such as the council-controlled organisations of the NCC and TDC will transfer to the new council. Policies for retention and/or additional governance structures will be at discretion of the new council. This will provide the opportunity for the adoption of single unified policies aimed at achieving the maximum potential for these structures to contribute to growth and community well-being including an appropriate balance between return to the council of any surplus and reinvestment in the organisation, an issue raised with us.

90. The combined district is characterised by considerable diversity at the local level. Given this, it is our view that the efficiency and effectiveness of local government decision-making will be enhanced by ensuring decisions, wherever possible, are taken at the level closest to those most affected, best informed and best placed to monitor implementation. This addresses the concern raised in submissions for sufficient capacity and capability in structural arrangements in order to respond appropriately to outlying and rural community interests.
91. Clause 59(2) of Schedule 3 of the LGA provides that a reorganisation scheme may constitute community boards, including prescribing delegations to community boards by Order in Council for a maximum period of six years. We propose district-wide coverage of community boards with significant delegations.
92. District-wide coverage of community boards will enable a consistent approach to local and district level governance and enhance coordination between the council, community boards and the chief executive. This will provide a clear basis for the establishment of formal relationship protocols and staff support arrangements. We believe district-wide coverage will improve understanding, transparency and accountability of decision-making processes in the district.
93. We propose constituting five community boards aligned to the boundaries of the Golden Bay, Lakes-Murchison, Motueka, Moutere-Waimea and combined Richmond-Nelson Wards. We believe these boundaries reflect areas of distinct community focus, preference and capacity to contribute to local community advocacy, decision-making and action. The combining of Richmond and Nelson Wards under one board will strengthen local governance of the contiguous urban area.
94. The role of community boards is set out in section 52 of the LGA involving representation, advocacy and communication with the community and the local authority. In recognition of the diversity of the Nelson-Tasman area and with a view to facilitating a strong and open working relation between the council and community boards, we are proposing specific, detailed powers and delegations for the community boards. This is aimed at promoting maximum local community engagement and devolution of decision-making and action by and on behalf of local communities.

Conclusion in relation to mandatory criteria of the Act

95. In order to proceed with a proposal, we must be satisfied that, under clause 3(1)(a) of Schedule 3 of the LGA, it will promote good local government of the districts/regions concerned. To assess this, we need to consider whether the proposed single council covering the combined Nelson-Tasman area, would be able to more efficiently and effectively perform the role of a local authority in relation to having the necessary resources, having an appropriate district/region, containing sufficiently

distinct community/communities of interest, and being able to meet the requirements of section 76 of the LGA.

96. In summary, we have found:

- a. there are strongly felt perceptions about local communities of interest, particularly in Tasman District, and at the same time there are a number of factors pointing to the need for more regional focus in the Nelson-Tasman area
- b. a more regional approach to planning is required in order to promote community well-being and present arrangements, in many respects, represent a missed opportunity
- c. initiatives on shared services have been and are likely to continue on a limited case-by-case basis and are dependent on co-ordinated decision-making by the two councils to fully realise potential benefits
- d. both councils are in a sound financial position but a combined council would have significantly greater financial strength to deliver services to residents and enhance community resilience
- e. the present governance structures do not effectively represent either the wider regional community of interest or more local communities of interest
- f. an area-wide council, elected on a ward basis, with an accompanying strong area-wide second tier of advocacy and decision-making bodies, would better represent all levels of community of interest within the Nelson-Tasman area, and provide for more effective and accountable decision-making now and in the future.

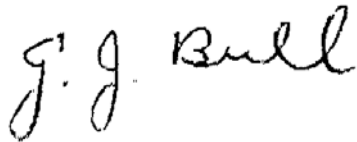
Commission's decision

97. Having assessed the proposal and all submissions made to it against the criteria contained in clauses 3 and 4 of Schedule 3 of the Local Government Act 2002, the Commission has decided, in terms of clause 39, to prepare a draft reorganisation scheme based on the proposal.

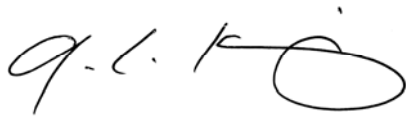
THE LOCAL GOVERNMENT COMMISSION



Sue Piper (Chair)



Gwen Bull (Commissioner)



Grant Kirby (Commissioner)

13 June 2011

Main points made in submissions and at hearing

The following is a summary of key points made in support of the proposal.

- a. The combined area of Tasman District and Nelson City is best recognised as a single community of interest. High growth in Richmond and Nelson means that the existing boundary between Nelson City and Tasman District is increasingly artificial. There is increasing cross-boundary use of council and non-council services and facilities. It is useful to recognise the inter-dependence of 'urban' and 'rural' communities within the Nelson-Tasman area. The proposal better reflects the area of interest/rohe of affected iwi. It better reflects shared ecological interests/impacts (e.g. Tasman Bay). It better reflects the regional economy. Within the region there are many distinct local communities and the proposal will enable better recognition of these communities and the nature of relationships between these communities.
- b. The proposal, with the provision of wards, will enable distinct communities of interest to elect representatives to a single council directly responsible for regional decision-making. Use of community boards will enhance local representation and local governance, and could provide distinct local communities with a greater degree of autonomy to make decisions of a local nature.
- c. Local government needs to be accountable to the regional community as a whole rather than the communities of the district and the city. The proposal will allow for a single decision-making structure for the region, which will result in consistency of approach and timeliness of decision-making. Currently there are delays in decisions being made for the region as a whole and the quality of decisions is affected by the two councils working independently but needing to reach consensus. The proposal will enable strategic region-wide issues to be discussed at one table, while local issues could be referred to community boards for decision. Therefore, the proposal will provide more certainty and clarity for residents and organisations who seek to work at a regional level as well as empowering local communities. It will assist council-Māori engagement. It will enable stronger relationships with central government agencies.
- d. Planning that recognises the region as one environmental, economic and social unit should be occurring so that priorities can be established for meeting the long-term needs of the region. This will promote the achievement of shared regional objectives including protecting the productive capacity of rural land in the Waimea Plains. It is not cost-effective nor fair for residents, interest groups and central agencies to have to participate in two planning processes to address regional issues.

- e. One planning and asset management framework will enable a consistent administration and funding approach across the region for infrastructure, waste, transport, community and regulatory services. There will be opportunities to provide better service delivery and reduce costs through having single contracts for services for the whole region and by rationalising the infrastructure to support services. There is the potential for procurement advantages.
- f. The proposal will enhance the overall financial capacity of local government in the area. This will enable, for example, greater flexibility to develop infrastructure appropriate to present and future community needs and respond to emergencies. There may be ongoing operational savings as a result of having one, rather than two councils. It will be more cost-effective to prioritise on a regional basis.
- g. The proposal will enable the better parts of the two existing councils to continue. Having a regional focus will improve organisational culture and job satisfaction by removing an existing (artificial) focus on inter-council relationships. The proposal provides greater managerial flexibility.

The following is a summary of key points made against the proposal.

- a. Nelson City and Tasman District are best recognised as two distinct communities of interest. Tasman District is predominantly rural, i.e. 17 spread out settlements with low population density and closely connected to primary industries, and Nelson City is predominantly urban, i.e. compact with high population density and a range of service industries. The pressures, experiences, priorities and outcomes sought by the Nelson City and Tasman District communities are sufficiently distinct, and in some ways competing, to warrant two councils.
- b. Councillor representation of communities of interest within Nelson City and Tasman District are likely to be diminished by the proposal. The proposal is likely to result in an urban-based Nelson or Richmond-Nelson majority of councillors. The resultant council will be less understanding of, and less empathetic towards, rural community interests. Community boards will not provide sufficient compensatory representation as it is the council(s) that will make most of the rating, planning, policy and service delivery decisions. Community boards appear to duplicate decision-making processes. Community group liaison with councillors and council staff provides a better avenue for community representation.
- c. There is already effective governance of Tasman District and the proposal is unlikely to improve the quality and cost-effectiveness of governance processes. Rural and smaller communities will be disadvantaged by the governance structure of a combined council. Collaboration between the two councils enables ongoing efficiency and effectiveness gains, while preserving the separate identities and governance and accountability arrangements of each community/

council. The councils work well together on regional matters such as tourism and economic development, the port and airport and pest management.

- d. Planning for Tasman District and Nelson City is effective, as evidenced by community and external agency feedback. There are many examples of planning involving both councils. Having separate regional land transport committees has enabled progress in delivering roading outcomes.
- e. Within Tasman District service delivery is well managed, cost effective and consistent with community expectations. Economies of scale are more likely to be achieved on a shared service-by-service basis than by union. There is already a mature spirit of collaboration between the councils, particularly at staff level, including recognition of specialised skills. The councils are committed to improving shared services where they provide their respective communities with better services and more cost-effective delivery. A combined council may prioritise urban-based services to the detriment of rural services. Some residents' access to council services might be negatively affected.
- f. Both councils are adequately resourced to meet community needs. There is minimal capacity to streamline Tasman District Council operations without impacting negatively on service levels. Rates may increase for Tasman District ratepayers and decrease for Nelson City ratepayers (based on the higher overall land and capital value of Tasman District compared to Nelson City). There will be other compatibility and fairness/equity issues to be resolved (e.g. different levels of council debt, different approaches to council revenue and financing policies, different pressures and expectations of rural and urban communities). The New Zealand Land Transport subsidy may decrease. The proposal will result in additional, unanticipated financial and non-financial transitional costs and potentially higher governance costs. Ongoing efficiencies will be best achieved through shared arrangements not union.
- g. There is evidence that both councils operate cost-effectively in comparison to other councils. The councils already run lean operations with low turnover of staff. There is little scope for the proposal to enhance local government management and organisational capacity. There is a risk that the proposal will create a large, impersonal bureaucracy with more middle managers.

Persons/groups who appeared at hearing

At Murchison

Stuart Bryant
Murchison and Districts Community Council
Jane Field
Rural Women NZ, Murchison Branch
Tapawera & Districts Community Council
Helen Campbell
Buller District Council

At Richmond

Tasman District Council
Alan Blackie
Brian Ensor
Trevor Norriss
Kit Maling
'Hands Off Tasman' petitioners (Paul Searancke)
Philip Woollaston
Hanne Bjorklund
Donald Horn
R N & P J Hellyer
Colin Garnett
Nelson A and P Association
Nelson Motorcycle Club
Federated Farmers NZ, Nelson Province
Federated Farmers NZ, Golden Bay Branch
Zane Mirfin
Rural Women NZ, Nelson Province
Mitch Irvine
L A Cawdon
Gordon Currie
Tim Rogers
Bruce Evans
Fay Emily Baker
John Green
Judith Nash
David Richards
Bill Sayer
Stuart Macann
Roger May

At Nelson

Representative of Electors (Aldo Miccio)
Nelson City Council
Wakatū Incorporation
Tiakina te Taiao Ltd
Road Transport Association
Nelson Biodiversity Forum
Nelson Tasman Chamber of Commerce
Barry Thompson
Cynthia McConville
Neil Hodgson
Nelson Grey Power

At Motueka

Motueka Community Board
Bruce Dyer
Ian Davey
Brian & Lorraine Lister
Ed Stevens
Samuel Tawhai
David Ogilvie
Phil Peters
Robert Murphy
Ruth Lawley & Anna Mitchell
Grey Power Motueka

At Takaka

Golden Bay Community Board
Joe Bell
Rural Women NZ, Golden Bay Branch
Tonie Watts
A R Wenzel
Sara Chapman
Penny Griffiths
Brook Weatherwell
Richard Lamb
Joseph Blessing
Victoria Davis
Diana Dumont
Franca Morani
Giuliana Morani
Peter Foster
Ursus Schwarz
Jennie Morris
Sheryl Nalder
John and Carolyn McLellan
Marion & Trevor Riley
Joyce Wylie
Liza Eastman
Lethea Erz
Harry Richards

Nelson-Tasman District representation arrangement options

1. Initial Commission assumptions for representation arrangements:
 - a Golden Bay Ward containing the same area as the existing Golden Bay Ward
 - a Lakes-Murchison Ward containing the same area as the existing Lakes-Murchison Ward less an area transferred to the Moutere-Waimea Ward
 - a Moutere-Waimea Ward containing the same area as the existing Moutere-Waimea Ward plus the area currently in the Lakes-Murchison Ward
 - a Motueka Ward containing the same area as the existing Motueka Ward
 - a Richmond Ward containing the same area as the existing Richmond Ward, possibly plus some adjacent areas currently in Nelson City
 - a Nelson Ward containing the existing Nelson City, possibly less areas included in the Richmond Ward.

2. Under a 16-member council this would result in the following representation arrangements:

16-member council

	Population	Members	Population-Member Ratio	Difference from Quota	% Difference from Quota
Wards					
Golden Bay Ward	4,890	1	4,890.00	-913.13	-15.74
Lakes-Murchison Ward	2,510	1	2,510.00	-3,293.13	-56.75
Motueka Ward	11,000	2	5,500.00	-303.13	-5.22
Moutere-Waimea Ward	13,600	2	6,800.00	996.88	17.18
Richmond Ward	15,350	3	5,116.67	-686.46	-11.83
Nelson Ward	45,500	7	6,500.00	696.88	12.01
	92,850	16	5,803.13		

3. Under 17- and 18-member councils, representation arrangements would be as follows:

17-member council

	Population	Members	Population- Member Ratio	Difference from Quota	% Difference from Quota
Wards					
Golden Bay Ward	4,890	1	4,890.00	-571.76	-10.47
Lakes-Murchison Ward	2,510	1	2,510.00	-2,951.76	-54.04
Motueka Ward	11,000	2	5,500.00	38.24	0.70
Moutere-Waimea Ward	13,600	2	6,800.00	1,338.24	24.50
Richmond Ward	15,350	3	5,116.67	-345.10	-6.32
Nelson Ward	45,500	8	5,687.50	225.74	4.13
	92,850	17	5,461.76		

18-member council

	Population	Members	Population- Member Ratio	Difference from Quota	% Difference from Quota
Wards					
Golden Bay Ward	4,890	1	4,890.00	-268.33	-5.20
Lakes-Murchison Ward	2,510	1	2,510.00	-2,648.33	-51.34
Motueka Ward	11,000	2	5,500.00	341.67	6.62
Moutere-Waimea Ward	13,600	2	6,800.00	1,641.67	31.83
Richmond Ward	15,350	4	3,837.50	-1,320.83	-25.61
Nelson Ward	45,500	8	5,687.50	529.17	10.26
	92,850	18	5,158.33		