



LOCAL GOVERNMENT COMMISSION *MANA KĀWANATANGA Ā ROHE*

To: Local Government Commission

From: Michael Coles, Advisor

Date: 13 September 2011

Subject: Draft reorganisation scheme for the union of Tasman District and
Nelson City: Hearing of submissions

Purpose

1. In preparation for the hearing of submissions on the draft reorganisation scheme for the union of Nelson City and Tasman District, this report briefs you on:
 - (a) arrangements for the hearings
 - (b) the next stages in the reorganisation process
 - (c) the main points raised in submissions.

Background

2. On 16 June 2011 the Local Government Commission (the Commission) issued a draft reorganisation scheme for the union of Nelson City and Tasman District. The draft reorganisation scheme was accompanied by a separate document – *Decision on proposal for the union of Nelson City and Tasman District (13 June 2011)* – which sets out the Commission’s findings and decision.¹
3. The Commission called for submissions on the draft reorganisation scheme by 19 August 2011. It received 386 submissions by the closing date and a further nine late submissions. The Commission has agreed to accept these late submissions, making a total of 395 submissions.

¹ For further background information on the process prior to 16 June 2011 see paragraphs 3 to 15 of the Commission’s *Decision on proposal for the union of Nelson City and Tasman District (13 June 2011)*

4. Of the 395 submissions:
 - 156 are in support (including support conditional on inclusion of certain provisions in a final scheme)
 - 156 are in opposition
 - 83 do not state a view either in support or opposed.

Arrangements for hearings

5. Hearings of the proposer, affected councils and submitters, who have indicated they wish to be heard, have been arranged for **28, 29 and 30 September 2011 and 11 and 12 October 2011, in Nelson, Motueka, Murchison and Takaka.** A schedule of speakers for each location is separately circulated.

Next stages in reorganisation process

6. The next stages in the process for the proposed union of Nelson City and Tasman District are set out in Subpart 4 of Schedule 3 of the Local Government Act 2002. Clause 46 of Schedule 3 provides as follows:
 - (1) *After all the submissions on a draft reorganisation scheme have been considered and any further inquiries or consultations considered by the Commission to be necessary or desirable have been made or carried out, or if no submissions on a draft reorganisation scheme have been received, the Commission may, subject to subclause (2),—*
 - (a) *approve the scheme—*
 - (i) *in the form in which it was publicly notified; or*
 - (ii) *with the modifications that the Commission thinks fit, being modifications that result from the submissions made on the draft reorganisation scheme or from any inquiries or consultations made or carried out in relation to that scheme; or*
 - (b) *decline to proceed with the scheme.*
 - (2) *The Commission must not approve a draft reorganisation scheme that does not comply with the criteria specified in clauses 3 to 7.*
 - (3) *If the Commission approves a draft reorganisation scheme,—*
 - (a) *it becomes a reorganisation scheme; and*
 - (b) *the Commission must give public notice of the reorganisation scheme.*

7. Following the hearing of submissions, the Commission will need to:
 - a) review the information available to it, and consider whether further information is required in order to consider the proposed union against the criteria set out in the Schedule
 - b) decide whether to issue a final reorganisation scheme based on the draft reorganisation scheme, with or without modifications, or to decline to proceed with it.

8. If the Commission issues a final reorganisation scheme, two polls will be held – one of the electors of Nelson City and one of the electors of Tasman District. For the final reorganisation scheme to be successful, more than 50% of the votes cast by the electors in each poll must be in favour of the proposal. If both polls are in favour of the proposal the final reorganisation scheme will be implemented by Order in Council.

Summary of main issues raised in submissions

Regional issues

Governance of the region

- Union is required to promote efficient and effective governance for the Nelson-Tasman area
- Union will weaken local governance for the Nelson-Tasman area and promote dysfunction
- The councils already have effective processes to deal with any regional issues and a range of shared service arrangements, and there are no wider regional opportunities at present or in the foreseeable future which should be, but are not, being addressed by local government
- Further consolidation may be required, however a shared service and/or collaborative approach is preferred (e.g. more joint committees of the two councils with more authority to act, one regional plan or policy statement for the combined Nelson-Tasman area)
- Contrasting views on whether one or two councils can better advocate on behalf of the Nelson-Tasman area with, for example, central government
- Union will enable more effective council-iwi relationships taking account of the outcomes of Treaty settlement processes (e.g. provision of co-governance in relation to Resource Management Act matters)
- Union will enable more effective and unified governance of council-controlled organisations
- Current inequity in the use of and funding for regional facilities/activities
- Queries about the nature of the future committee structure of a united council

Regional Planning

- Support for and opposition to a single, unified approach to regional planning
- A need for more consistency in regulatory services
- Inappropriate that all planning rules be the same under a united council/plan
- A reorganisation scheme should include a clause setting out that the council will undertake consultation with key stakeholders as part of unified plan process

Representation

Fair and effective representation

- Urban (10 councillors) versus rural (6 councillors) voting bias will likely lead to 'urban focus' and poor outcomes for rural ratepayers and rural communities
- Diminished councillor to population ratio will weaken representation of communities of interest
- Community boards will/will not adequately strengthen representation of distinct communities
- A total of 16 members is best option/excessive in light of community board arrangements
- Nelson City should comprise three wards
- A new Mapua-Ruby Bay-Moutere Hills Ward should be constituted (inclusive of Tasman/Mairiri settlements, leaving Motueka with urban focus), transfer remainder of Waimea area to enlarged Richmond-Waimea Ward
- Pokororo and Ngatimoti should be included in Motueka Ward
- Support for inclusion of Wai-iti area in Moutere-Waimea Ward
- Draft scheme exceeds 10% rule excessively (Lakes-Murchison should be merged with Moutere-Waimea Ward)
- Concern about future security of exemption from 10% rule for Lakes-Murchison Ward
- One councillor should be removed from each of Richmond and Nelson Wards and one councillor should be added to each of Golden Bay and Lakes-Murchison Wards
- Suggest one rural ward (6) and one urban ward (10)

Other representation issues

- Support for constitution of rural advisory panel

- Support for and opposition to constitution of Māori ward and/or Māori statutory board, and/or Māori community board
- Support consideration of initiatives to promote youth representation/ participation
- Question basis of population projections in light of impact of proposed Motueka-coastal pipeline, anecdotal observations, and immigration from Christchurch
- Nature of communities of interest – i.e. future growth, impact of ultra-fast broadband and rural broadband, inaccuracies/gaps in Murchison information
- Election of mayor/council by STV
- Suggestions for co-mayorality, revolving chair, deputy councillor e.g. for Golden Bay, boards appoint councillors

Number and coverage of community boards

- Opposition to any community boards
- Support for district-wide coverage of community boards as proposed
- Support for only partial-district coverage of community boards, support and opposition to each of the five proposed community boards on various grounds (e.g. Golden Bay distinct isolated community, splits some communities of interest, Lakes-Murchison has multiple communities represented by community associations, Nelson-Richmond board too large)
- Support for two, three or four community boards covering Richmond-Nelson area, including support for separate Richmond community board (to include additional area to Saxton Field)
- Support for Ruby Coast-Moutere Hills community board
- Support community boards for each area currently represented by a community association
- Support 16 community boards (with chair to represent community on council)
- Electoral subdivisions for proposed Richmond-Nelson, Lakes-Murchison, Moutere-Waimea communities
- Support manawhenua member on Golden Bay community board

Community Board role and functions

Council - community board roles/relationship

- Role of community boards conflicts with and/or duplicates the roles/powers of council and community associations
- Effective council-community engagement in Nelson-Tasman can be achieved through means other than community boards
- Success of proposed community board model will depend on such factors as:

- relationship with council/clarity of roles (i.e. commitment on part of various parties to 'making it work')
- support for community boards advocating a vision for their community and undertaking local decision-making
- extent of community board functions/delegations
- retaining district-wide coverage of community boards
- the organisational structure and administrative support arrangements
- council approach to funding
- remuneration
- Commission should provide a 'roadmap' to support community boards to build capacity and capability to move towards a stronger governance role
- Need for mechanisms to enable a positive (i.e. co-operative rather than adversarial approach) working relationship between council and community boards, including:
 - governance principles and protocols for communication and coordination
 - council to give appropriate weight to community board recommendations
 - community board member inclusion on council committees
 - support for appointment of councillor as community board chair and/or councillors appointed to community boards
 - support for community board member RMA training/inclusion on hearing panels

Community Board functions/delegations

- Community boards should be delegated the maximum level of responsibility
- Review delegations registers of Queentown Lakes District Council, Southland District Council, Central Otago District Council, and Christchurch City Council
- Ensure consistency with section 52 of the LGA and statutory restrictions
- Ensure separation of governance/management roles
- Ensure separation of submitter/adjudicator roles
- Some powers listed in draft scheme better dealt with by staff and/or committees
- Motueka and Golden Bay community boards should retain existing delegated responsibilities
- Strengthen/make more explicit community board planning responsibilities (e.g. development of draft local plans for approval by council as part of statutory

planning processes under LGA/RMA and/or preparation of an annual/triennial plan with proposed budget)

Funding of community boards

- Relationship between community board responsibilities and funding arrangements should be made more explicit (e.g. particular communities have control over the rates take from their community)
- Community boards should have authority to spend to certain levels (e.g. a small percentage of the general rate based on the population of community unless a justified need to have a standard or regional approach exists)
- Commission should specify funding/budgets to enable community boards to achieve their role and responsibilities e.g. remuneration, support

Scheme provisions

- Provision for community boards to be delegated different ranges or levels of responsibilities
- Draft scheme does not provide adequate flexibility within initial six year period to review and tailor community board powers/delegations
- Extend period that council cannot remove community board responsibilities beyond six years
- Commission should specify processes for reviewing delegations

Remuneration

- Estimated community board member remuneration inadequate while the estimated councillor remuneration is excessive
- Remuneration should reflect mileage and broadband reimbursement (rural equity issue)

Financial and organisational issues

Rating

- Support for and against proposed capital valuation rating system
- Queries on the impact of the capital value system on different properties and areas in Nelson and Tasman
- Queries on the impact of future rating/funding policies on ratepayers/residents, including the impact on Nelson and Tasman ratepayers given the different relative income levels of the two districts, impact of possible removal of Nelson CBD rating differential
- Need to undertake independent rating review for the combined area

- Need for guidance for new council from LGC on the full range of available rating tools (general/targeted rates, UAGCs etc), prohibition on differentials on commercial properties, retention of targeted Richmond business rate
- Preserve rating status quo until 30 June 2014 and/or an initial limit/freeze on rates increases
- Need for investigation of Nelson CC's differential on rural properties to reflect "inequity of property value based rating"
- Abolition of targeted rate for community boards

Financial impact of proposal

- Concerns about lack of detail/accuracy of true costs of the proposal, including future costs and in relation to provision of services e.g. impact of reduced NZTA subsidy, rivers management, Māori leasehold land, administration of community boards, transition (e.g. redundancies, loss of institutional knowledge)
- Concerns about the nature of comparisons undertaken with other councils
- Support for potential for savings in staffing and consistent service delivery
- Concerns about accuracy and realism of levels of savings identified, no guarantee of realisation of savings, experience of amalgamations elsewhere in relation to suggested savings
- Support for establishment of uniform/consistent financial policies across the combined area
- Concerns about need/process for reconciliation of existing policies e.g. rating, depreciation, development contributions
- Need to undertake full independent review of all financial implications of the proposal

Financial capacity

- Support for potentially enhanced financial capacity
- Concerns about levels of current/future debt levels and suggestion that increased financial capacity has been equated to increased borrowing
- Ring-fence liability for existing loans

Organisational capacity

- Advantage of freeing up of specialist staff to work in particular areas rather than on regional coordination activities
- Support for greater focus on delivering services to community

- Concerns at potential for more levels of management/bureaucracy in larger organisation
- Management of different approaches to supply of professional services
- Perceived potential arising from proposal to privatise assets to achieve efficiencies
- Need to protect/establish register of community funded assets

Transition

- Appoint independent committee chairperson (appointed by LGC) or establish framework for resolving differences where there is an even split of opinions, range of views on need for casting vote for chairperson or mechanism for consensus, appointment of a 'commissioner'
- Suggested identified qualities for members of committee/exclude opponents of proposal, representation of iwi, involvement of iwi and community boards in appointments to committee
- Suggestions on scope of the functions/powers of the transition committee, focus on immediate requirements necessary for establishment of new council on 1 November 2012 and recommendations to new council on policies, structures etc.
- Need for detailed transition matters to be addressed, e.g. LTP issues/timing, timetable for amalgamation of resource management plans, conflict between Nelson Air Quality Plan and TDC RM Plan for new council
- Learn lessons from Auckland restructuring
- Requirement for committee to consult with stakeholders on all matters, consultation with iwi
- Increased periods for prescribed delegations to community boards (6 years), retention of service centres (5 years)
- Concerns at appropriateness of committee addressing management/organisational issues e.g. organisation structure, staffing issues, need for involvement of PSA
- Clarification of relationship of committee to existing councils (reporting etc), funding, remuneration, transparent mechanism for councils to consider committee's recommendations
- Longer term for committee i.e. councils run full term until October 2013 elections
- Queries around timing of appointment of Acting CE/before new Council comes into office? (Acting) CE not be a current employee, suggested split role for CE

- Initial staff appointments should be on fixed-term contracts, limits on redundancies
- Concerns at true cost of transition including one-off costs (e.g. redundancies, relocation to Richmond)
- Establish a rating review committee

Other issues

Process

- Concerns at 'faulty' process, petition etc, quality of information, meeting of statutory requirements
- Other options/structures e.g. regional/territorial functions, boundaries, impacts on neighbours
- Re-establish regional council, use name 'regional'
- Delay process until 2012 – distractions of world cup and general election then Christmas, decision-making process too short
- Councils don't participate in next phase, LGC leads communication
- Review process after 5 years
- Identify local government reform principles

Name

- Suggestions: Kahurangi, if Nelson Tasman not be hyphenated, Tasman-Nelson, Nelson Bays, Western Bays, Nelson, Nelson Province, Nelson City, Nelson District
- Conduct a competition

Miscellaneous

- Council HQ be in Nelson, TDC building as CDHQ (earthquake risk?)
- District boundaries – Maruia River Valley (Nelson-Tasman), Murchison (West Coast), St. Arnaud (Marlborough)
- Remuneration of elected members/staff, determined by independent panel
- Rotate council meetings around district
- Limits on who can stand as candidates at election
- Membership of Cawthron Trust be limited to mayor only

Criteria for consideration of draft reorganisation scheme

Statutory criteria

1. Schedule 3 of the Local Government Act 2002 (the Act) sets out criteria and requirements relating to local authority reorganisation proposals. Clause 3 requires the Commission, when considering a reorganisation proposal or scheme, to satisfy itself 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 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; and*
 - iii. *contain within its district or region a sufficiently distinct community of interest or sufficiently distinct communities of interest; and*
 - iv. *be able to meet the requirements of section 76 of the Act (which relate to local authority decision-making).*
2. When considering the above matters, the Commission is required to have regard to –
 - 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.*
3. Other criteria are set out in clauses 4 to 7 of Schedule 3.

Commission's approach

4. The Act does not define 'good local government'. However a previous Commission has recorded its view that the Commission, when considering a reorganisation proposal, is required to consider whether the proposal will result in *improved* local government arrangements in the area. Subsequent Commissions have maintained this view and considered that 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 as set out in the Act.

5. The role of a local authority (section 11 of the Act) is to –
 - a) *give effect to the purpose of local government; and*
 - b) *perform the duties, and exercise the rights, conferred on it by the Act or any other enactment.*

6. The purpose of local government (section 10 of the Act) is to –
 - a) *enable democratic local decision-making and action by, and on behalf of, communities; and*
 - b) *promote the social, economic, environmental, and cultural well-being of communities, in the present and for the future.*

7. The Commission’s decision document, on which the draft reorganisation scheme for the union of Nelson City and Tasman District was based, addressed the statutory criteria in terms of the following questions:
 - 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 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 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?
 - decision-making requirements?