



Local Government Commission
Mana Kāwanatanga ā Rohe

Report of the proceedings and operations of the
Local Government Commission
Mana Kāwanatanga ā Rohe
For the year ended 30 June 2020

*Presented to the House of Representatives pursuant to
clause 31 of Schedule 4 of the Local Government Act 2002.*

Minister of Local Government
Parliament Buildings
Wellington

Minister

We forward, in terms of clause 31 of Schedule 4 of the Local Government Act 2002, the report of the Local Government Commission for the year ending 30 June 2020.

Yours sincerely

The Local Government Commission

Brendan Duffy	Chairperson
Janie Annear	Commissioner
Sue Piper	Commissioner

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Introduction

The principal roles of the Local Government Commission are to make decisions on reorganising the structure of local government and on the electoral representation arrangements of local authorities.¹ In the year ending 30 June 2020, the Commission was involved primarily with reorganisation and the issues dealt with are discussed further on in this report.

Membership

At the beginning of the year the Commission comprised:

- Pita Paraone (Chairperson)
- Janie Annear
- Brendan Duffy

Regrettably, Pita Paraone passed away on 26 August 2019.

Subsequently, the Minister of Local Government appointed Brendan Duffy to be chairperson and Sue Piper to the vacant commissioner position. Their terms commenced on 19 September 2019.

Local Government Act 2002 Amendment Act 2019

The Local Government Act 2002 Amendment Act 2019 came into force on 22 October 2019.

The Act introduced a new process for dealing with local government reorganisation. Specific features of the new process were:

- Requests being able to be made to the Commission for the investigation of an issue or matter but without proposing a specific reorganisation
- The ability for the Commission to design processes appropriate to the circumstances of individual reorganisation initiatives
- Certain reorganisation processes being able to be managed by one or more of the affected local authorities themselves. The role of the Commission in such cases will be to review the application at the end of the local authority-led process to ensure that it complies with the legislation and that it has the support of affected communities.

Reorganisation applications being considered by the Commission at the time of the Amendment Act coming into force were to be dealt with under the new process from a point determined by what stage they had reached under the former process. Other than the application for the dissolution of the Greater Wellington Regional Council (discussed later in this report), each of the active applications were deemed to be reorganisation initiatives and the Commission was required to undertake investigations covering the

¹ A complete list of the Commission's functions is contained in Appendix 1.

proposals in the applications. The first specific action required of the Commission for each investigation was the adoption of an investigation reorganisation process.

Local government reorganisation

Auckland

In November 2017, the Commission determined that proposals for a North Rodney unitary council and a Waiheke unitary council, separate from the Auckland Council, should not proceed, and that its preferred option for local government in Auckland was the status quo. The Northern Action Group subsequently appealed against the Commission's decision to the High Court under Schedule 5 of the Local Government Act. After a series of procedural issues had been dealt with by the High Court, a hearing of the substantive matters of the case was held on 30 September and 1 October 2019. The High Court issued its decision on the appeal on 28 April 2020 and found in favour of the Commission on each of the points raised in the appeal.²

West Coast Region

In 2018 and 2019 respectively, the Commission issued a final reorganisation proposal and then a reorganisation scheme for the West Coast Region to have a combined district plan under the Resource Management Act. This was to be achieved by the transfer of the responsibility for preparing and maintaining district plans from the three district councils in the region to the West Coast Regional Council. Direct responsibility for preparing and approving the combined plan was to be delegated to a joint committee comprising local government and iwi representatives. The joint committee came into being in July 2019.

To assist the development of a combined district plan, the Commission contributed \$200,000 towards the initial costs of the project. These funds came from an allocation made to the Commission in 2015 to enable it to broker shared services of this nature.

Horowhenua District/Palmerston North City boundary alteration

In November 2018, the Commission received a reorganisation application from residents for the transfer of the Tokomaru and Opiki areas from Horowhenua District to Palmerston North City.

During the early part of 2019-2020 the Commission collected information on the Horowhenua District Council's assets and liabilities for the Tokomaru and Opiki areas and on community of interest. It also engaged with Ngāti Tūranga which had submitted an alternative application in response to the initial application.

² Northern Action Group Incorporated (NAG) v The Local Government Commission [2020] NZHC 830 [28 April 2020]

As noted above, on the enactment of the Local Government Act 2002 Amendment Act 2019 this process became a reorganisation investigation and the first action required of the Commission was the adoption of an investigation process document. As part of the development of the process document, the Commission consulted with the affected local authorities, affected iwi and hapū, and the original applicant group. A process document was expected to be adopted by the Commission in July 2020.

Western Bay of Plenty District/Tauranga City boundary alterations

In 2018, the Commission received a reorganisation application from the Western Bay of Plenty District Council for the transfer of an area (called Tauriko West) from the district to Tauranga City. This application had been developed in cooperation with the Tauranga City Council. The rationale behind the application was that additional land should be included in Tauranga City for residential development, and that its inclusion in the city would allow planning for its development to be done as part of the Tauranga urban area, and for the integration of the area into Tauranga City's infrastructure.

In early 2019, the Commission had called for alternative applications. Among the responses received were proposals for three additional areas to be included in Tauranga City. These areas were located at Belk Road, Keenan Road and Tara Road. The arguments in support of these areas being included in Tauranga City were similar to those for Tauriko West being included in the city.

From June through to August 2019, the Commission met with the two affected councils, the Bay of Plenty Regional Council, hapū, alternative applicants and members of the public from the areas proposed to be included in Tauranga City. This consultation revealed support from the affected local authorities and hapū, along with some members of the public, for the Commission pursuing the additional boundary changes.

After the enactment of the Local Government Act 2002 Amendment Act 2019, an investigation process document was developed after consultation with the affected local authorities and hapū. The process document was released in January 2020. The process provided for the Tauriko West boundary alteration to be considered ahead of consideration of the other boundary alterations.

In March 2020, the Commission released a consultation document on the Tauriko West proposal. Twelve submissions were received in response. After considering the submissions the Commission decided in May to develop a reorganisation plan for the inclusion of Tauriko West in Tauranga City as proposed in the document. It is anticipated that the reorganisation plan will be released in early July.³

Consultation documents for the Belk, Keenan and Tara road areas are planned to be released in early July 2020.⁴

³ The reorganisation plan was released on 20 July 2020.

⁴ These were released on 3 July 2020.

Golden Bay local board

In October 2018, the Commission received a reorganisation application from a residents' group seeking the establishment of a local board for the Golden Bay Ward of Tasman District. If agreed, the board would replace the existing Golden Bay Community Board. The Commission agreed to assess the application. Initial consideration of the application was delayed, at the request of the Tasman District Council, because of the impact of the wild fires in the district in early 2019. The next formal step commenced in May 2019 with a call for alternative applications.

In August 2019, the Commission released a position paper on the process to provide further information on local boards and community boards to help inform public debate in the lead-up to the October 2019 local elections.

After the enactment of the Local Government Act 2002 Amendment Act 2019, the Commission consulted with the Tasman District Council, iwi, the Golden Bay Community Board and the applicant group on the investigation process document required by the new legislation. The process document was released in January 2020.

The first step in the new process was to be the release of a consultation document on the option of a local board for Golden Bay in April 2020. The release was delayed by the Covid-19 emergency as the Commission wished to hold community meetings as part of the consultation. The investigation process document was amended to provide for an amended timeline, and for the consultation document to be released in July 2020.⁵

The development of the consultation document was supported by a report prepared for the Commission on the likely costs for a Golden Bay local board. The Commission also met with local board members and officers from the Auckland Council to discuss their experience of local boards.

Greater Wellington Regional Council

In September 2019, the Commission received an application from an individual for the dissolution of the Greater Wellington Regional Council and the formation of each of the territorial authorities in the Wellington Region as unitary councils.

The Local Government Act 2002 Amendment Act 2019 provided that:

- if the Commission received an application in the period between 4 April 2019 and the enactment of the Act; and
- if the application was made by a person, body or group, other than a local authority or the Minister

⁵ The consultation document was released on 6 July 2020.

the Commission must determine whether the application was made on behalf of a group comprising at least 10% of the electors in the affected area. If the Commission determined that the application was not made on behalf of a group comprising at least 10% of electors in the affected area, the Commission was not to assess the application. The Commission determined that the application was not made by at least 10% of electors, it having been made by one person. The Commission advised the applicant and took no further action on the application.

Representation reviews

Twenty local authorities are required to review their representation arrangements prior to the 2022 local elections, while others may do so if they chose. The Commission will become involved in these reviews if appeals or objections are received on any of them, or if any of the proposed arrangements do not comply with the +/-10% fair representation rule in section 19V(2) of the Local Electoral Act 2001.

In anticipation of these reviews, the Commission issued a revised edition of its *Representation Review Guidelines* in June 2020. It also provided several sets of statistics to assist local authorities in their thinking about representation arrangements and to assist their consideration of the option of Māori wards and constituencies.

Representation Commission

The Commission's chairperson, Brendan Duffy, sat as a member of the Representation Commission when it reviewed and determined parliamentary electorate boundaries for the 2020 and 2023 general elections. The Representation Commission sat formally on 12 days between September 2019 and April 2020.

The year ahead

The primary focus of the Commission in 2020-2021 will be the following activities:

- Completing investigations of the reorganisation initiatives currently before it, and dealing with any new reorganisation initiatives or requests it receives
- Preparing for the next round of representation reviews to take place over 2021 and 2022 by providing guidance and data to councils to assist with their reviews.

Duties and functions of the Commission

Local Government Act 2002

Under this Act the Commission has a number of responsibilities. These are:

- (a) under section 16(7), to provide advice to the Minister of Local Government when a local authority has sought a binding ruling from the Minister on significant new activities proposed by a regional council;
- (b) under section 26, to amend reorganisation plans and reorganisation implementation schemes;
- (c) under section 27, to consider and determine applications from territorial authorities wishing to be called a city council or a district council;
- (d) under section 30, if considered appropriate, to provide information about local government and to promote good practice relating to a local authority or to local government generally;
- (e) under section 31, of its own volition or at the request of the Minister of Local Government, to report on, and make recommendations to the Minister and any relevant local authority, on matters relating to a local authority or local government;
- (g) under sections 48R and 48S, to determine certain disputes between the governing body of unitary authorities (outside Auckland) and local boards;
- (h) under Schedule 3, to undertake reorganisation investigations⁶ following receipt of reorganisation initiatives⁷ and reorganisation requests⁸;
- (i) under Schedule 3, clause 53, to be an arbiter on the apportionment of assets and liabilities between local authorities, following implementation of a reorganisation scheme, where there is disagreement;
- (j) under Schedule 6, to consider and determine appeals where a territorial authority declines a request from a group of electors for the constitution of a community.

Local Government Act 1974

Section 517T of this Act provides that the Commission must hear and determine objections regarding proposals for the transfer of ownership and administration of local authority land drainage and water race schemes.

⁶ A reorganisation investigation can result in recommendations to a local authority, one or more reorganisation plans or both.

⁷ A reorganisation initiative seeks a specific reorganisation, i.e. the union, constitution, and abolition of districts and regions, creation of unitary authorities, boundary alterations, and transfers of responsibility.

⁸ A reorganisation request seeks an investigation into an issue or matter but without proposing a particular reorganisation.

Local Government (Auckland Council) Act 2009

Section 98 of this Act provides for the Commission to determine certain disputes between the Auckland Council's governing body and local boards.

Local Electoral Act 2001

Under this Act the Commission has four responsibilities:

- (a) under section 19R, to consider and determine appeals and objections relating to a local authority's representation proposals for the next triennial local elections;
- (b) under section 19V, to consider decisions of local authorities to not comply with the fair representation requirement of section 19V(2);
- (c) under sections 19JA and 19JB, to make minor alterations to the boundaries of electoral areas; and
- (d) under section 19ZI, to issue guidelines identifying factors and considerations for local authorities to take into account when undertaking their representation reviews.

Auckland Regional Amenities Funding Act 2008

Section 29 of this Act provides that if the Auckland Council does not approve a levy recommended by the Auckland Regional Amenities Funding Board, and the Council and Board cannot agree on an arbitrator, the Commission must appoint an arbitrator.

Electoral Act 1993

Section 28 of this Act provides that the Chairperson of the Local Government Commission is to be a non-voting member of the Representation Commission.

Museum of Transport and Technology Act 2000

Section 20(10) of this Act provides that where the Museum Board and the Museum's Electoral College cannot agree on an arbitrator to determine the amount of the Museum's levy, the arbitrator is to be appointed by the Local Government Commission.

New Zealand Public Health and Disability Act 2000

Clause 20 of the Second Schedule to this Act provides that the Minister of Health may request the Minister of Local Government to refer to the Local Government Commission for inquiry and report, any question relating to the union, reconstitution, or alteration of the boundaries of any district or constituency of a district health board.

Port Companies Act 1988

Section 2A of this Act provides that the Commission may determine any matter where a regional council and a territorial authority are unable to reach agreement in respect of any function, power, duty, property, right or undertaking of a former harbour board transferred to them.

Sale and Supply of Alcohol Act 2012

Sections 304, 337 and 363 of this Act empower the Commission to review the boundaries of licensing trust districts and wards, and of community trusts, to ensure they conform with the boundaries of meshblocks.

Contact details

Local Government Commission

Street address: 45 Pipitea Street, Thorndon, Wellington 6011

Postal address: PO Box 5362, Wellington 6140

Telephone number: 64 4 460 2228

Email address: info@lgc.govt.nz

Website: www.lgc.govt.nz

