



Local Government Commission
Mana Kāwanatanga ā Rohe

Report of the proceedings and operations of the
Local Government Commission

Te pūrongo mō ngā whakahaere me ngā mahi a te
Mana Kāwanatanga ā-Rohe

For the year ended 30 June 2021
Mō te tau i mutu i te 30 Hune 2021

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

*He mea whakatakoto atu ki Te Whare o Ngā Māngai i raro i te
whiti 31 o te Hōtaka 4 o Te Ture Kāwanatanga ā-Rohe 2002.*

Minister of Local Government
Parliament Buildings
Wellington

Tēnā koe Minister

We forward, in accordance with clause 31 of Schedule 4 of the Local Government Act 2002, the report of the Local Government Commission for the year ending 30 June 2021.

Nāku noa, nā

The Local Government Commission

Brendan Duffy	Chairperson
Janie Annear	Commissioner
Bonita Bigham	Commissioner
Sue Piper	Commissioner

Contents / Ngā kaupapa

	Page
Introduction / Kōrero whakataki	4
Membership / Ngā mema	4
Promoting good local government – a review of Council Codes of Conduct / Te hāpai i ngā kāwanatanga mahi pai – he arotake i Ngā Tikanga Whanonga a Ngā Kaunihera	4
Local government reorganisation / Te whakaraupapa anō i ngā kaunihera	6
Horowhenua District/Palmerston North City boundary alteration / Te whakarerekē i te rohenga o Te Takiwā o Horowhenua/Te Papaioea	6
Western Bay of Plenty District/Tauranga City boundary alterations / Ngā rerekētanga ki te rohenga o Te Takiwā o Te Uru o Tauranga Moana/Te Tāonenui o Tauranga	6
Golden Bay local board / Poari ā-rohe o Mohua	7
Representation reviews / Ngā arotake whai kanohitanga	7
The year ahead / Te tau e tū mai	8
Duties and functions of the Commission / Ngā mahi a te Mana Kāwanatanga ā-Rohe	9
Contact details / Ngā taipitopito whakapā	12

Introduction / Kōrero whakataki

The Local Government Commission (the Commission) is an independent statutory body established under the Local Government Act 2002. The principal functions of the Commission are:

- Promoting good local government in New Zealand through promoting good practice in local government and providing information about local government;
- Reorganisation of local authorities; and
- Reviewing and making any required decisions on the electoral representation arrangements of local authorities.¹

In the year ending 30 June 2021, the Commission has been actively involved in each of the above three principal functions. Issues dealt with are discussed further below.

Membership / Ngā mema

At the beginning of the year the Commission comprised:

- Brendan Duffy (Chairperson)
- Janie Annear
- Sue Piper

Following the enactment of the Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2021, 32 local authorities resolved to establish Māori Wards or Constituencies for the first time. The number of local authorities undertaking representation reviews subsequently increased from 20 to 44. As a result, and at the request of the Commission, on 21 June 2021 the Minister of Local Government appointed Bonita Bigham as a temporary commissioner until 29 April 2022.

Promoting good local government – a review of Council Codes of Conduct / Te hāpai i ngā kāwanatanga mahi pai – he arotake i Ngā Tikanga Whanonga a Ngā Kaunihera

As part of its focus on good governance in local government, the Commission is interested in addressing governance issues across the sector. It has previously been identified that conduct issues and difficulties in dealing with them has been of concern to the local government sector. This led the Commission to undertake a review of the purpose, use and effectiveness of Council codes of conduct.

The Commission began its investigation in mid-2020 with a review of media reporting, considering previous reports into codes of conduct. The Commission also contacted local authorities directly for information about their codes of conduct, including when they had been adopted and the number of complaints that had been laid since the 2019 election.

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

This work provided the basis of an interim report to the Minister of Local Government in December 2020, in which it was noted that the Commission would undertake further engagement with the local government sector before considering any recommendations to the Minister of Local Government.

Over the first half of 2021, the Commission undertook the following additional engagement with the sector:

- Requesting further information from Councils on the use of the LGNZ code of conduct template, any edits made, and whether community boards had adopted codes of conduct
- A qualitative survey of council chief executives and members (including mayors and chairs, councillors and community/local board members)
- Discussions with mayors, chairs and chief executives at various regional mayoral forums and the LGNZ regional sector meeting
- Discussions with other key sector stakeholders, including the Office of the Auditor-General, the Ombudsman, LGNZ and Taituarā.

The key points the Commission consulted on were whether:

- Codes of conduct should be included in legislation as one of the matters to be covered in the briefing to members at inaugural meetings or as part of induction
- Codes of conduct should be readopted at the start of each triennium
- Penalties for breaching codes of conduct should be developed for inclusion in legislation
- The Commission had a role to play in the code of conduct area.

The Commission has collated and analysed the feedback provided by Councils and stakeholders, and is preparing a report with recommendations for the Minister of Local Government, covering the following matters:

- Structured and ongoing training and professional development opportunities focused on increased leadership and governance skills, including a structured entry pathway for candidates considering standing for local authorities
- Mechanisms for elected members to agree shared values, behaviours and principles early in the triennium, and increased support for elected members to work together in undertaking their governance role
- Increased standardisation of codes of conduct to address content gaps, including improved clarity around principles of good governance behaviour, a clear complaints process, improved definitions of materiality, including seriousness of breaches, with an independent body to check appropriateness of codes
- Standardisation of penalties and increased mechanisms for enforcement; and
- Guidance on the proactive release of information, particularly where a breach is upheld.

It is expected this will be presented to the Minister of Local Government in the second half of 2021.

Local government reorganisation / Te whakaraupapa anō i ngā kaunihera

Horowhenua District/Palmerston North City boundary alteration / Te whakarerekē i te rohenga o Te Takiwā o Horowhenua/Te Papaioea

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.

The Commission adopted a process document in July 2020. After a delay due to Covid-19 limitations on gathering size, in October 2020 public meetings occurred in Tokomaru and Opiki. A consultation document was subsequently released in March 2021, which attracted 154 submissions. The Commission held hearings in Tokomaru in April 2021.

In May 2021 the Commission decided against adopting a reorganisation plan for Tokomaru and Opiki to join Palmerston North City. Instead, the Commission recommended that Horowhenua District Council provide clearer information to residents on the Council's assets and services in Tokomaru and Opiki, and how these are funded. It further recommended that Horowhenua District Council and Palmerston North City Council should work together to explore ways to enhance local government services in Tokomaru and Opiki. As part of its decision, the Commission requested Horowhenua District Council and Palmerston North City Council to provide updates on these actions to the Commission by 30 November 2021 and 31 May 2022.

As a previous Mayor of Horowhenua District, Commission Chair Brendan Duffy took no part in any consideration of this reorganisation application.

Western Bay of Plenty District/Tauranga City boundary alterations / Ngā rerekētanga ki te rohenga o Te Takiwā o Te Uru o Tauranga Moana/Te Tāonenui o Tauranga

In November 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. On calling for alternative applications, three additional areas were further proposed to be included in Tauranga City, being at Belk Road, Keenan Road and Tara Road. It was subsequently decided that the Tauriko West reorganisation application would progress ahead of the Belk, Keenan and Tara Roads application.

In March 2020, the Commission released a consultation document on the Tauriko West proposal and, after considering submissions, decided to develop a reorganisation plan for the inclusion of Tauriko West in Tauranga City. The reorganisation plan was released in July

2020, and the reorganisation implementation scheme subsequently issued in November 2020.

Consultation documents for the Belk, Keenan and Tara Road areas were released in July 2020, with 22 submissions received. After considering submissions, the Commission agreed to proceed with the boundary alterations along with the transfer of a small area from Tauranga City to Western Bay of Plenty District. A reorganisation plan, and then a reorganisation implementation scheme were issued in February 2021.

Golden Bay local board / Poari ā-rohe o Mohua

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. The Commission agreed to assess the application. Tasman District Council initially requested a delay in relation to the wildfires in the region during February 2019.

The Commission released a consultation document in July 2020. Consultation occurred through July and August 2020. 585 submissions were received, and hearings were held at Onetahua Marae in Pohara and in Richmond in September 2020. Following the consultation period, the Commission engaged further with Tasman District Council, the Golden Bay Community Board, the Working Group for a Golden Bay Local Board (the original applicant) and Manawhenua ki Mohua, prior to issuing a decision in November 2020 against establishing a Golden Bay local board.

In its decision, the Commission recognised that some of the potential benefits of a local board in Golden Bay could be realised through greater empowerment of the existing Golden Bay Community Board and an improved relationship between Golden Bay and Tasman District Council. The Commission agreed to meet with the respective parties, to monitor progress towards achieving these outcomes, and to address concerns raised in the reorganisation application and through the consultation process. Following feedback from Tasman District Council and the Golden Bay Community Board in April 2021, the Commission met a final time with the parties in June 2021, and noted that good progress towards these goals had been made.

Representation reviews / Ngā arotake whai kanohitanga

Forty-four local authorities are reviewing their representation arrangements prior to the 2022 local elections. This is a greater number than previously anticipated, due to a significant number of local authorities establishing Māori wards or constituencies, thereby triggering representation reviews. As at 30 June 2021, seven local authorities had commenced the formal steps of their representation reviews, with the remaining 37 to do so prior to 31 August 2021. 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 which case the Commission will issue a determination for each local authority prior to 11 April 2022.

The Commission's activities in relation to representation reviews up to 30 June 2021 have been directed at supporting local authorities in preparatory activities for their representation reviews. For the most part, this has involved the provision of information and procedural guidance, such as issuing revised guidelines and Frequently-Asked-Questions documents particularly relating to the establishment of Māori wards and constituencies. The Commission has also provided support to local authorities through engagement opportunities presented via Taituarā forums.

The year ahead / Te tau e tū mai

The primary focus of the Commission in 2021-2022 will be the following activities:

- Completing the review of council codes of conduct and making recommendations to the Minister of Local Government
- Continuing engagement with the local government sector on matters relating to good local government and representation issues
- Completing representation review activities and issuing all required determinations prior to 11 April 2022
- Dealing with any new reorganisation initiatives or requests it receives
- Where requested, participating in the review into the Future for Local Government, and observing any outcomes in the preliminary report

Duties and functions of the Commission / Ngā mahi a te Mana Kāwanatanga ā-Rohe

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, 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 investigations² following receipt of reorganisation initiatives³ and reorganisation requests⁴;
- (i) under Schedule 3, clause 22B to review local authority-led reorganisation applications;
- (j) under Schedule 3, clause 31 to consider for rulings that material published by a local authority complies with clause 31(1);
- (k) under Schedule 3, clause 41 to prepare and issue reorganisation implementation schemes;
- (l) under Schedule 3, clause 53, to decide the apportionment of assets and liabilities between local authorities following implementation of a reorganisation scheme, where there is disagreement;

² A reorganisation investigation can result in recommendations to a local authority, one or more reorganisation plans or both.

³ 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.

⁴ A reorganisation request seeks an investigation into an issue or matter but without proposing a particular reorganisation.

- (m) 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.

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 and Schedule 1A, to consider and determine appeals and objections relating to a local authority's representation proposals for the next triennial local elections;⁵
- (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.

⁵ In the case of a representation review undertaken by the Bay of Plenty Regional Council the Bay of Plenty Regional Council (Maori Constituency Empowering) Act 2001 also applies.

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 / Ngā taipitopito whakapā

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