



Local Government
Commission

Mana Kāwanatanga ā Rohe

**Decision of Local Government Commission
on whether or not to adopt a reorganisation
plan for one or more local boards
in Tasman District**

November 2020

Purpose of document

This document sets out the Local Government Commission's decision on a reorganisation plan for the establishment of one or more local boards in Tasman District. This decision is part of the investigation the Commission was required to undertake in response to an application for the establishment of a Golden Bay local board.

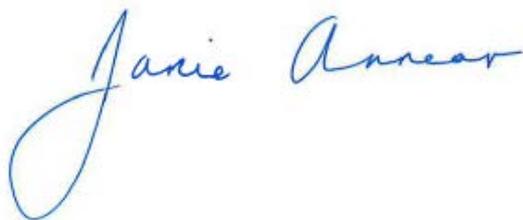
Commission decisions

At its meeting on 11 November 2020, the Commission:

- **resolved**, pursuant to clause 12 of Schedule 3 of the Local Government Act 2002, not to develop and adopt a reorganisation plan for the establishment of one or more local boards in Tasman District
- **agreed** to meet with Tasman District Council, Golden Bay Community Board, the Working Group for a Golden Bay Local Board and Manawhenua ki Mohua to discuss the possibility of greater empowerment of Golden Bay Community Board, including more decision-making responsibility, and also options for improving relationships between Golden Bay and Tasman District Council.



Brendan Duffy
Chairperson



Janie Annear
Commissioner



Sue Piper
Commissioner

Background

1. On 31 October 2018, the Local Government Commission received an application for the establishment of a local board in the Golden Bay Ward of Tasman District which would replace the existing Golden Bay Community Board.
2. On 29 November 2018, the Commission decided, under clause 6 of Schedule 3 of the Local Government Act 2002 (LGA), to assess the application.
3. Following a request to delay the next required step of notifying the Commission's decision and inviting alternative applications, the Commission undertook this step on 8 May 2019. It received five responses to this invitation by the deadline of 10 June 2019.
4. On 22 October 2019, legislation to amend the local government reorganisation process as set out in Schedule 3 of the LGA came into effect. This legislation included transitional provisions relating to reorganisation applications that the Commission had received and decided to assess but, in respect of which, had not decided whether to issue a draft proposal. This was the case with the Golden Bay local board application.
5. The new legislation required the Commission to undertake an investigation in relation to the application. Before commencing this investigation, the Commission was required to prepare and consult on a document setting out the process it intended following to carry out the investigation. The Commission adopted the required document, including timetable for the investigation, in December 2019.
6. In light of the Covid-19 emergency that was declared in New Zealand in March 2020, and in particular the resulting lockdown period that occurred, the timetable set out in the investigation process document involving public consultation had to be adjusted. At its meeting on 18 June 2020, the Commission agreed that the consultation period in relation to the Golden Bay local board investigation would run from 6 July to 14 August 2020.
7. At its meeting on 15 October 2020, the Commission noted the completion of the consultation period which resulted in the receipt of 585 submissions (after two submissions had been withdrawn). Two hearings for those submitters who expressed a wish to appear before the Commission, were held on Onetahua marae, Pohara, Golden Bay and in Richmond on 8 and 9 September 2020 respectively.
8. Following the consultation period, the Commission requested further meetings with Tasman District Council and with key Golden Bay interests (Golden Bay Community Board, the Working Group for a Golden Bay Local Board (the original applicant) and Manawhenua ki Mohua to discuss issues arising out of the consultation.
9. At its October meeting, the Commission agreed it had sufficient information, following the consultation and further meetings, to proceed to a decision at its November meeting, pursuant to clause 12 of Schedule 3 of the LGA, on whether or not to develop and adopt a reorganisation plan for establishment of one or more local boards in Tasman District.
10. At its meeting on 11 November 2020, the Commission, following consideration of an officers' report, made the decisions set out in this document.

Requirements for a reorganisation plan

11. In deciding whether or not to develop and adopt a reorganisation plan under clause 12 of Schedule 3 of the LGA, the Commission must have regard to:
 - a. the scale of the potential benefits of the proposed changes in terms of the objectives set out in clause 10¹ and the likelihood of those benefits being realised
 - b. the financial, disruption, and opportunity costs of implementing the proposed changes at the proposed time
 - c. the risks and consequences of not implementing the proposed changes at the proposed time
 - d. existing communities of interest and the extent to which the proposed changes will maintain linkages between communities (including iwi and hapū) and sites and resources of significance to them
 - e. the degree and distribution of demonstrable public support for the proposed changes within communities in the affected area
 - f. the degree and distribution of any public opposition to the proposed changes within communities in the affected area.

Scale of the potential benefits of changes and likelihood of them being realised

12. The Commission is required to consider the scale of the potential benefits of establishing one or more local boards in Tasman District² in terms of the objectives set out in clause 10 of Schedule 3 of the LGA. Given the nature of the possible change, establishing a local board(s) and leaving the local authority in place, we consider the most pertinent objectives are:
 - a. better fulfilment of the purpose of local government
 - b. effective responses to the opportunities, needs and circumstances of the affected areas
 - c. enhanced effectiveness, efficiency and sustainability of local government services

¹ The objectives the Commission must take into account are:

- a) better fulfilment of the purpose of local government as specified in section 10
- b) productivity improvements within the affected local authorities
- c) efficiencies and cost savings
- d) assurance that any local authority established or changed has the resources necessary to enable it to effectively perform or exercise its responsibilities, duties, and powers
- e) effective responses to the opportunities, needs and circumstances of the affected areas
- f) enhanced effectiveness, efficiency and sustainability of local government services
- g) better support for the ability of local and regional economies to develop and prosper
- h) enhanced ability of local government to meet the changing needs of communities for governance and services into the future
- i) effective provision for any co-governance and co-management arrangements that are established by legislation (including Treaty of Waitangi claim settlement legislation) and that are between local authorities and iwi or Māori organisations.

² Pursuant to clause 2(c)(ii) of Schedule 3 of the LGA, Tasman District is the 'affected area' for the purposes of this investigation.

- d. enhanced ability of local government to meet the changing needs of communities for governance and services into the future.
13. We believe a Golden Bay local board does have the potential to better fulfil the purpose of local government set out in section 10 of the LGA i.e. to enable democratic local decision-making and action, and to promote community well-being. This is because a local board has the guaranteed responsibility of undertaking decision-making by and on behalf of its local community and to which it is then democratically accountable. By undertaking this responsibility, a local board is potentially better able to reflect the interests of that community and, as a result, promote its well-being.
14. We believe the establishment of a local board for Golden Bay is also likely to be an effective response to the opportunities, needs and circumstances of that area. We heard from many submitters about the nature of Golden Bay, being a distinct community of interest some distance and geographically separate from the rest of Tasman District and Richmond in particular. It is generally acknowledged, including by the Commission, to be an isolated area and susceptible to being cut off from the rest of the district given its reliance on the Takaka hill road which can be closed following severe weather events. More local decision-making in these circumstances would be beneficial and promote community resilience.
15. Accordingly, we consider a Golden Bay local board can be seen as having the potential to enhance the effectiveness, efficiency and sustainability of local government services in Golden Bay. Given its proximity to the local community and decision-making responsibility, it also has the potential to result in an enhanced ability of local government to meet the changing needs of the community for governance and services into the future.
16. The key issues for us to consider are the scale of these potential benefits in respect of both Golden Bay and Tasman District as a whole, and the likelihood of them being realised.
17. While the consultation was focussed on the option of a Golden Bay local board, we note that more submitters (254) favoured the option of a Golden Bay local board and local boards elsewhere in the district than the option of only a Golden Bay local board (117). This reflects a level of understanding by some submitters about the potential benefits of local boards as well as a desire for equal treatment of all communities across the district.
18. We consider, however, there is not sufficient evidence of support elsewhere in the district, or even sufficient awareness of the local board option, at this time for us to consider the establishment of local boards across Tasman District.³
19. Accordingly, we need to focus on the likelihood of the potential benefits of a local board being realised for Golden Bay. At the same time, we need to consider whether, or to what extent, these benefits could be achieved under current arrangements i.e. using the present Golden Bay Community Board rather than establishing a new local board? This will address further the question of the scale of the potential benefits of a local board.

³ Levels of community support for local boards are addressed further below under 'demonstrable public support'.

20. Some submitters saw the mandatory nature of the 3-year plan and the annual agreement between a local board and governing body, coupled with the allocations of decision-making made by the Commission, as providing the necessary certainty for the ongoing effective operation of the local board. However, others considered the formality of such processes may accentuate existing differences. These differences, firstly between Golden Bay and Tasman District Council based in Richmond, were reflected in many submissions in a clear 'us and them' distinction and frequent references to 'over the hill'. We also heard from some submitters about historic differences between communities *within* Golden Bay.
21. A number of submitters suggested the motivation behind the original local board application was primarily these relationship issues and particularly those between Golden Bay and Tasman District Council. They described these tensions as dating back to 1989 when the then Golden Bay County Council was amalgamated with the remainder of Tasman District. The most frequently cited example of the fraught relationship was the ongoing debate on the fate of the Takaka grandstand. Many of these submitters believed an improvement in relationships needed to be addressed directly and would not be achieved simply by structural change i.e. a change from community board to local board.
22. The position of the present Golden Bay Community Board on the state of the relationship with Tasman District Council was not clear through the submissions and hearings process. It does appear to us, however, there is scope for the board to take a more active leadership and advocacy role both within Golden Bay as well as between Golden Bay and Tasman District Council.
23. Based on the evidence submitted, we see validity in the arguments on the need to improve the relationship between Golden Bay and Tasman District Council. In addition, we suggest that the introduction of completely new statutory requirements relating to local boards (e.g. 3-year plan and annual agreement) could provide further challenges which may serve to exacerbate current relationship issues. To the extent this does occur, the likelihood of potential benefits of a Golden Bay local board being realised would be in jeopardy at least in the short term.
24. We heard from many submitters that a community board could undertake many of the responsibilities suggested in the consultation document for a Golden Bay local board. This is true potentially. However, we note the Golden Bay Community Board presently has very limited delegations with many of these 'delegations' being in the nature of power to make recommendations or to provide input into Tasman District Council decision-making. These powers, in fact, are already within a community board's statutory role i.e. to represent and advocate for its community and to consider and report on any matter of interest or concern to the community board. In effectively carrying out this role, a community board would naturally make recommendations or provide input to its parent council.
25. The ability to make recommendations is quite different from decision-making responsibility. Clause 32(4) of Schedule 7 of the LGA makes it clear that a community board to which any responsibility, power or duty has been delegated, may, without confirmation by the local authority, exercise or perform them "in the like manner and with the same effect as the local authority could itself have exercised or performed them".

26. We consider that both the scale of the potential benefits of establishing a Golden Bay local board and the likelihood of these being realised are dependent in large part on the attitude of the parties involved with current arrangements. That is, firstly it depends on the willingness of Tasman District Council to delegate more *decision-making* responsibility to the present community board and then on the board being both willing and able to carry out these delegations.
27. We note that Tasman District Council asked the Commission earlier in the reorganisation process to consider whether increasing the delegations to the existing community boards would be a “more effective and efficient way of enabling increased local decision-making”. It also said that it would be happy to work with the Commission on ways to enhance the current delegations to the community boards.
28. We received further indications of a willingness for more local decision-making in Golden Bay during the consultation and in the subsequent meetings. However, in order to be fully satisfied on the potential benefits of a Golden Bay local board being realised vis-à-vis a more empowered Golden Bay Community Board, we consider we would need to meet again with the key parties to discuss further the ongoing role of the community board including more empowering delegations.
29. In order for these discussions to be as productive as possible, we believe they should also address the issue of the need for improvements in the relationship between Golden Bay and Tasman District Council and seek commitments to make these happen.⁴ Specific commitments by the parties may address, at least in part, the concerns of some submitters that delegations by council do not have the ongoing certainty of allocations of decision-making responsibility made by the Commission on the establishment of a local board.
30. As reflected in the consultation document, there is also scope to engage with Manawhenua ki Mohua to discuss greater collaboration on particular matters in Golden Bay in recognition of the interests of the three iwi comprising the collective. We believe, therefore, that they should also be included in any further meeting along with the Working Group for a Golden Bay Local Board.

Financial, disruption and opportunity costs of implementing changes

31. Many submitters raised the matter of the direct financial cost of establishing a Golden Bay local board. In particular, questions were raised about the impact on the current Golden Bay targeted rate, covering some costs of the community board, given the significantly different assessments of likely local board costs by Tasman District Council and by the Commission.

⁴ Tasman District Council stated in its submission it believed there had been improvements in the relationship in recent times. There is some support for this statement in the council’s latest community survey with, for example, 45% of respondents in Golden Bay (3rd highest) being ‘satisfied or very satisfied’ with the way the council consults the community compared to 21% (5th highest) in 2019, while 21% (2nd highest) were ‘dissatisfied or very dissatisfied’ compared to 41% (highest) in 2019.

32. We note that the two cost assessments were done on quite different bases. The Commission's assessment was of the *marginal* cost of a Golden Bay local board over and above both current Golden Bay Community Board costs and costs of local governance services currently provided out of the Takaka service centre. One reason for this approach was the non-availability of cost allocations for certain services at the local level apart from those costs recovered by way of the current Golden Bay targeted rate. The Commission, for example, did its own calculation of the cost to be off-set against its Golden Bay local board cost assessment, to cover the cost of the current officer support provided to the Golden Bay Community Board (which is not recovered by the targeted rate).
33. The Commission's assessment of costs also reflected what it saw as an appropriate distinction between the benefits to Golden Bay specifically and benefits to the district as a whole. These latter benefits included a local board being able to assist the council to meet its statutory responsibilities to engage and consult local communities and to relieve the council of certain local decision-making responsibilities and, as a result, focus on strategic district-wide decision-making. This distinction was reflected in the Commission assessing the direct costs of a Golden Bay local board at \$240,000 p.a. to be borne by Golden Bay, and indirect costs of \$190,000 p.a. to be borne across the district.
34. In contrast, Tasman District Council's assessment was based on the Auckland Council's local board model. This model relates to the 21 local boards covering all of Auckland and applies the full cost of governance services at the local level including the cost of the council department servicing the 21 boards. The council's submission also identified positions, such as a customer support officer and a community liaison officer, which we see as comparable to some services currently provided out of the Takaka service centre. While the council submission identified local board costs for the two areas with the smallest populations in Auckland (Aotea/Great Barrier Island and Waiheke Island), total costs are still of an order (around \$900,000) well above that assessed by the Commission.
35. We note that a number of submitters were concerned at *any* increase, including in the order of that assessed by the Commission, in the current Golden Bay targeted rate. Other submitters said their support for a Golden Bay local board/Golden Bay local board and boards elsewhere, was conditional on further work/clarification of likely board costs. This included suggestions that further decision-making responsibilities ought to be allocated to a Golden Bay local board with a view to achieving a greater benefit/cost ratio for such a board.
36. A number of submitters also expressed concern that Tasman District Council would ultimately be responsible for determining local board costs and how these were to be funded, while noting that the Commission could only make recommendations on these matters.
37. If the Commission were to proceed to a reorganisation plan, we believe discussions with Tasman District Council would still be required with a view to providing more clarity to ratepayers. These discussions would seek to reconcile the different approaches to identifying the direct costs of one or more local boards in Tasman District, and also an understanding on the indirect costs to be borne by the district as a whole.

38. A number of submitters expressed concern at the potential opportunity cost of losing one Golden Bay ward councillor if a Golden Bay local board were to be established. We note the Commission stated in its consultation document it considered it was appropriate to leave the question of future ward representation to Tasman District Council as part of its next representation review. We still consider this is the appropriate course of action and therefore do not express a view on the likelihood of a loss of one ward councillor.
39. On the issue of disruption costs, we note that Tasman District Council raised concerns about the impact of a decision to establish a Golden Bay local board at this time in relation to its current work programme. This included the impact on the development of the council's next long-term plan which council officers are currently working on. In addition, as identified in 'Next steps' in the Commission's consultation document, there would be the required transition process occurring in February – April 2021 to address detailed implementation matters, a one-off election process to be conducted in October 2021, and then the coming into office of the new board on 1 November 2021 including the need for a new member induction programme.
40. We need to consider the time involved and both the monetary and non-monetary costs relating to the above matters, against the benefits we have identified from establishing one or more local boards in Tasman District.

Risks and consequences of not implementing changes

41. We have identified above a range of concerns raised by submitters and also uncertainties remaining around the actual cost of implementation of the option of a Golden Bay local board. We consider the significance of these factors is likely to outweigh any risks and consequences arising from non-implementation of a Golden Bay local board/local boards elsewhere in Tasman District at the present time.

Existing communities of interest and linkages

42. As noted in the consultation document, and confirmed throughout the consultation process, Golden Bay is widely recognised as a distinct community of interest. Given the option of a Golden Bay local board involves a board covering the existing Golden Bay Ward/area of the Golden Bay Community Board, we have identified no negative impact on the existing community of interest including on linkages between communities.
43. While many submitters supported the option of establishing local boards across Tasman District, there were some varying opinions on the number of such boards and the extent these should reflect the other four wards in Tasman District. As noted previously, we believe further consideration and community consultation would be required if the Commission were to consider the establishment of local boards elsewhere in the district.
44. The Commission is aware that there has been some interest in Richmond in the establishment of a community board for that area given what were described in the consultation process as significant growth pressures in the area and a perceived disadvantage in local representation compared to Golden Bay in particular. We note a community board can be established at any time under a separate statutory process in the LGA (Schedule 6) and consider more targeted consultation on such a proposal is necessary outside of the current investigation process.

45. We note the submission from Manawhenua ki Mohua supported retention of existing local government arrangements in Golden Bay. This was based firstly on a Golden Bay local board, in line with local government legislation generally, not providing for direct Māori representation. There was also concern at an absence of detail on how “devolution of powers” to a local board would meet statutory responsibilities to Māori under the Treaty of Waitangi or the LGA. The submission stated that in order to practice kaitiakitanga effectively, it is essential that Manawhenua ki Mohua are represented to ensure cultural values are integrated into local decision-making processes. We believe it is important to engage further with Manawhenua ki Mohua to address the concerns raised, including possible options for addressing linkages between iwi and the sites and resources of significance to them.

Degree and distribution of demonstrable public support for changes

46. We note that:
- a. of the total 585 submissions received, 371 (63%) supported either a Golden Bay local board (117) or a Golden Bay local board and boards elsewhere in Tasman District (254)
 - b. of the 324 submissions received from Golden Bay, 166 (51%) supported either a Golden Bay local board (97) or a Golden Bay local board and boards elsewhere in Tasman District (69).
47. We further note a total of 243 submissions can be identified as coming from residents or organisations outside of Golden Bay (excludes submissions from organisations representing all Tasman District or address not given). The most submissions were from Motueka Ward (91) followed by Richmond Ward (82). We understand the vast majority of these submissions, submitted on the prepared submission form with very brief or no supporting comments, were facilitated by the Nelson-Tasman Climate Forum and were forwarded in bulk by a member of the forum.
48. With one exception, all 166 submissions from Golden Bay supporting either a Golden Bay local board or a Golden Bay local board and boards elsewhere, were from individuals. The exception was the submission from the Working Group for a Golden Bay Local Board which comprises five people (four of whom also made individual submissions). The resulting 165 individual submitters represents 3% of the current population of Golden Bay of 5,430.
49. This level of support for a local board(s) can be compared to the level of support submitted along with the original local board application which showed:
- a. 112 out of 116 responses in a Golden Bay residents’ survey supported an investigation by the Local Government Commission (with four requiring more information)
 - b. 650 people signed a petition requesting the Commission investigate the possibility of a Golden Bay local board (subsequently confirmed as 501 valid electors with the remaining signatures being duplicates, indecipherable or not on the electoral roll).

50. A comment was made in one of the further meetings held following the consultation, that the level of support for a Golden Bay local board in the recent consultation process reflects a degree of disappointment that the suggested responsibilities for such a board, as set out in the Commission's consultation document, were less than that envisaged by some Golden Bay residents. This is further reflected in the number of submitters proposing that most if not all the activities and services identified under the 'Advocacy' role in the consultation document, be moved to the 'Decision-making' role.
51. We consider the rationale for the initial categorisations of local board roles still apply. This is based on provisions in the LGA identifying both particular grounds for not allocating non-regulatory decision-making responsibilities to local boards, and also provisions reserving particular decision-making responsibilities to the governing body. Examples of the latter include regulatory responsibilities such as under the Resource Management Act and the Building Act, and also responsibility for transport networks and infrastructure.

Degree and distribution of any public opposition to changes

52. We note:
 - a. of the total 585 submissions received, 203 (34%) favoured retention of existing arrangements i.e. community boards (not local boards) in Golden Bay and Motueka
 - b. of the 324 submissions received from Golden Bay, 149 (46%) favoured retention of existing arrangements.
53. We further note that of the 243 submissions received from the other four wards of Tasman District (i.e. excluding Golden Bay), 54 (22%) favoured retention of existing arrangements.

Conclusion

54. We have noted the potential benefits arising from establishment of one or more local boards in Tasman District. While the scale of these benefits would be greater if local boards were established across Tasman District, we consider there is not sufficient evidence at this time of support for the establishment of local boards in the four wards outside of Golden Bay.
55. In respect of Golden Bay, the potential benefits of a local board relate to: better fulfilment of the statutory purpose of local government; the opportunities, needs and circumstances of Golden Bay; the effectiveness, efficiency and sustainability of certain local government services; and the changing needs of Golden Bay for governance and services into the future.
56. In deciding whether to develop and adopt a reorganisation plan for a Golden Bay local board, we need to consider both the scale of these benefits and the likelihood of them being realised.

57. We believe the scale of the potential benefits of a new local board can be best determined by considering the scope for them to be achieved under current arrangements i.e. through the existing Golden Bay Community Board. This will depend in large part on a willingness, or otherwise, for significantly greater empowerment of the community board. This empowerment relates firstly to decision-making in respect of responsibilities such as those suggested by the Commission in its consultation document for a Golden Bay local board. It also relates to a greater recognition of the potential of the advocacy and collaboration roles in respect of local services and activities, as also suggested by the Commission, with a view to promoting the well-being of Golden Bay residents.
58. In relation to the likelihood of the potential benefits of a local board being realised, we believe the relationship issues between Golden Bay and Tasman District Council, as raised by many submitters, are of sufficient significance to bring this into question at this time.
59. However, arising from the two further meetings held with the key parties following the consultation process, there appears to be a willingness to address the questions of greater Golden Bay Community Board empowerment and possible initiatives to improve relationships between Golden Bay and Tasman District Council. We believe these two matters need to be pursued.
60. We have also noted concerns by submitters, including those who support a Golden Bay local board, about the costs of such a board. This includes concerns about the significantly different assessments of these costs by Tasman District Council and by the Commission. The present uncertainty about financial costs and the fact that the council is ultimately responsible for determining these appear to us to be further grounds, along with possible opportunity costs and identified disruption costs relating to establishment of a local board(s), for not proceeding at this time.
61. Finally, while there is demonstrable public support for local boards, particularly across Tasman District as a whole, we note the level of support within Golden Bay is a bare majority (51% in support and 46% opposed).
62. On the basis of the above, we resolve, pursuant to clause 12 of Schedule 3 of the LGA, not to develop and adopt a reorganisation plan for either a Golden Bay local board or a Golden Bay local board and boards elsewhere in Tasman District.
63. However, in order to address concerns raised both in the original reorganisation application and during the consultation process, we will meet with Tasman District Council, Golden Bay Community Board, the Working Group for a Golden Bay Local Board, and Manawhenua ki Mohua with a view to reaching a level of agreement on greater empowerment of the Golden Bay Community Board and on initiatives to improve relationships between Golden Bay and Tasman District Council.