



**Mana Kāwanatanga  
ā Rohe**

Local Government Commission

# **Briefing for the incoming Minister of Local Government**

**November 2023**

# Nau mai haere mai

*Waiho i te toipoto, kauhā i te toiroa*  
*Let us keep close together, not wide apart*

## Introduction

The Local Government Commission (the Commission) welcomes you to your appointment as Minister of Local Government. We look forward to collaborating with you to support you to deliver the priorities of the Local Government portfolio.

The Commission is an independent statutory body formed under the Local Government Act.

The Commission's main roles are:

- Promoting good practice in local government
- Considering proposals for local government reorganisation
- Representation reviews
- Reporting to the Minister of Local Government on local government issues

# The Commission's membership

The Local Government Act provides that the Commission shall consist of three members appointed by the Minister of Local Government. One of those members must have knowledge of tikanga Māori and be appointed after consultation with the Minister of Māori Development. One of these members must have experience as an elected member or the chief executive of a local authority and must be appointed by the Minister after consultation with the New Zealand Local Government Association Incorporated (LGNZ)

The current Commission members are Brendan Duffy, Bonita Bigham and Dr Sue Birdrose. Brief biographies of the Commission members are attached as Appendix 1.

# The Commission's functions

The Commission is constituted under Subpart 3 of Part 3 of the Local Government Act 2002. It does, however, have functions under a number of different Acts.

The principal functions of the Commission are to:

- respond to applications for the reorganisation of local authorities.
- provide information about local government.
- promote good practice relating to a local authority or to local government generally.
- report to the Minister of Local Government, or to any local authority, on matters relating to local government, or on any matter arising from the performance of the Commission's functions (this may be done at the request of the Minister of Local Government or on the Commission's initiative)
- consider appeals and objections relating to a local authority's proposals for ward or constituency boundaries, community boards, and the number of members following a representation review.
- determine disputes between local boards and the governing bodies of unitary councils about the allocation of decision-making responsibility to local boards and local board bylaw proposals.
- consider appeals against decisions of territorial authorities not to constitute communities and community boards.

The Electoral Act 1993 also provides that the Chairperson of the Commission is a non-voting member of the Representation Commission which is responsible for reviewing the boundaries of parliamentary electorates.

A full list of the Commission's functions is included as Appendix 2.

# The Minister and the Commission

The roles of the Minister of Local Government in respect of the Commission are as follows:

- To appoint members and temporary members of the Commission
- To determine rates of remuneration paid to members of the Commission
- To take the lead on the Government's policy direction on local government generally, and the powers and constitution of the Commission specifically, as expressed through legislation
- To specify measures and expectations relating to the Commission's performance of local government reorganisation responsibilities.

The Minister is also responsible for arranging for the implementation of the Commission's decisions on local government reorganisation by Order in Council.

The relationship between the Minister of Local Government, the Local Government Commission and the Department of Internal Affairs is set out in diagrammatic form in Appendix 3.

## The Commission's work

### Representation reviews

To achieve fair and effective representation at these elections, local authorities are required by the Local Electoral Act 2001 to review their representation arrangements at least once every six years.

A representation review addresses the total number of councillors there should be for a district or region and the way they are elected. In the case of territorial authorities, this involves deciding whether councillors are elected from wards or 'at large' across the whole district, or by a mix of both wards and 'at large'.

A review also covers the boundaries of wards and constituencies, and their names. In the case of territorial authorities, a review also needs to address whether there should be community boards in the district and, if so, the number of boards; their names and boundaries; the number of members for each board including any appointed members; and whether the board area should be subdivided for electoral purposes.

34 local authorities are required to review their representation arrangements prior to the 2025 local elections. A list of the authorities required to undertake a review is attached as Appendix 4. In addition:

- other local authorities may decide to carry out a review.
- any local authority adopting Māori wards or constituencies for the first time must carry out a review .

The Commission becomes involved in a review if:

- a local authority's review is appealed against; and/or

- the membership arrangements proposed by a local authority do not comply with the +/-10% rule.

Currently Commission staff are providing guidance and information to councils to assist them in planning their reviews.

## Reorganisations

Local government reorganisation means changes to the structure or the responsibilities of local authorities and local boards. It could involve one or more of the following:

- the alteration to boundaries of districts or regions
- the union of districts or regions
- the constitution of a new district or region and a council(s) for that area
- the abolition of a district or region and the council(s) for that area
- the transfer of responsibilities between councils
- the establishment of joint committees
- the establishment, alteration of boundaries, or abolition of local boards.

There are two main pathways to reorganisation under Schedule 3 of the Local Government Act 2002 (LGA):

- A request may be made to the Commission for it to consider a proposed reorganisation covering one or more of the above matters – this is called a reorganisation initiative
- A request may be made to the Commission for it to conduct an investigation into an issue or matter without proposing a particular organisation structure – this is called a reorganisation investigation

In either case, a reorganisation initiative or reorganisation investigation can be submitted or requested by:

- One or more affected local authorities
- A group of at least 10% of electors in the affected area (including evidence of this)
- The Minister of Local Government

There are currently two reorganisation processes sitting with the Commission.

## **Kawerau District/Whakatane District boundary alterations**

In June 2022 the Commission agreed to investigate a reorganisation initiative, proposing the transfer of four areas from Whakatane District to Kawerau District. The purpose of the transfers is to provide additional land for expansion of the Kawerau industrial area and to ensure that several blocks of Māori land are located solely in Kawerau District, not split between two districts. A public consultation process has been held, as well as site visits and meetings with representatives from both councils, affected landowners and iwi and hapū. Additional engagement is underway and concluded on 17 November 2023 the Commission will consider this issue at its next meeting.

## **Wānaka-Upper Clutha District Constitution**

The Commission received an elector-initiated reorganisation initiative seeking the constitution of a Wānaka-Upper Clutha District Council, separate from the Queenstown-Lakes District Council. The proposed district would comprise the area of the current Wānaka-Upper Clutha Ward. In June 2023 the Commission commenced consultation with the affected local authority, Queenstown-Lakes District Council about whether to undertake an investigation in respect of the initiative. Feedback has also been sought from relevant Ngai Tahu rūnaka. The next step in this process is to make a decision about whether or not to investigate.

## **Promoting good practice**

### **Code of Conduct**

As part of its focus on good governance in local government, the Commission is interested in addressing governance issues across the sector.

The Local Government Commission is aware that conduct issues and Codes of Conduct are an area of concern for the Local Government sector. The Commission is interested in the role that Codes of Conduct, associated complaints and issues play as part of good local governance. As a response to this, a report on Local Government Codes of Conduct was presented to the Minister in 2021.

## **Governance Education Strategy**

Following the report on Local Government Codes of Conduct, the Commission has looked at how the governance capability of councils can best be supported. It led a working group with diverse sector experience, and widely canvassed councils to take stock of the sector's governance education needs. A report on a governance education strategy for local government went to the Minister of Local Government in June 2023. Ongoing, sector-specific governance education is an essential foundation for good governance. As a response to this, the Commission is working on a strategy that supports robust, ongoing professional development in the sector and addresses some of the barriers relating to funding, training quality, incentivisation, and accountability. The Commission is working with a wide range of sector stakeholders and stewards to ensure a collaborative and comprehensive approach is taken.

# Future Focus

The following legislative changes and/or reviews may affect the Commission's responsibilities or give us additional responsibilities:

## Resource Management Reforms

The Natural and Built Environment Act currently provides for the constitution of Regional Planning Committees. The Commission may have specific responsibilities relating to the composition of the committees – confirming whether agreed membership arrangements comply with the Act, and determining membership arrangements where there is disagreement.

The Commission has an existing power to request the Minister of Local Government to appoint temporary commissioners. Given the workload and subject matter associated with these potential new responsibilities, it is possible that temporary commissioners may be required to assist the Commission.

The Commission is working with the Ministry for the Environment and the Department of Internal Affairs to develop a more nuanced understanding of the likely timeframes relating to the Commission's role in the constitution of Regional Planning Committees.

## Future for Local Government Panel's Final report

The Commission acknowledges that the Future for Local Government panel's conclusion that the structure and operation of councils will need to be renewed to be future-fit. The Panel has recommended that councils lead the change and has suggested that councils within each region work together alongside hapū/iwi to determine which structure and operating model will best meet local needs. The Commission is interested to see the Government and sector responses to the recommendations.

# Anything else you need?

You can contact the Commission's Chief Executive Officer, Penny Langley on 0272 805 865 or [penny.langley@lgc.govt.nz](mailto:penny.langley@lgc.govt.nz)

### Biographies of Commissioners



#### **Brendan J Duffy ONZM, JP (Chair)**

Brendan was appointed as a temporary member of the Commission in March 2017 and as a full member in June 2018.

He was Vice President of Local Government New Zealand for 3 years and chair of its Rural Provincial Sector for 6 years.

Brendan was first elected as a member of the Horowhenua District Council in 1995 and served as Mayor of Horowhenua from 2004 to 2016.



#### **Bonita Bigham - Ngaruahine, Te Atiawa**

Bonita was appointed as a temporary member of the Commission in June 2021 and as a full member in July 2022.

Bonita was elected to the Taranaki Regional Council in 2022. She has previously been a member of the Taranaki Coastal Community Board (2019-2022) and a councillor at South Taranaki District Council (2010-2019).

She is also Co-chair of Te Maruata, Local Government New Zealand's national collective of Māori in governance roles in local government and Te Maruata's representative to LGNZ's National Council.

Bonita is also a member of the Lottery Oranga Marae Committee, the board of Creative New Zealand, and the Māori advisory committee to Taumata Arowai.



#### **Dr Sue Bidrose**

Sue was appointed as a member of the Commission in July 2022.

Sue is also Chief Executive Officer of Crown Research Institute, AgResearch. Prior to taking on that role she had been Chief Executive of the Dunedin City Council for seven years and had held other senior management roles at the Dunedin and Waitakere City Councils. She has also worked in central government in a number of research, policy and operational roles

# 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 investigations<sup>1</sup> following receipt of reorganisation initiatives<sup>2</sup> and reorganisation requests<sup>3</sup>;
- (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;

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<sup>1</sup> A reorganisation investigation can result in recommendations to a local authority, one or more reorganisation plans or both.

<sup>2</sup> 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.

<sup>3</sup> 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;<sup>4</sup>
- (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.

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<sup>4</sup> 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.

## **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.

## **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.

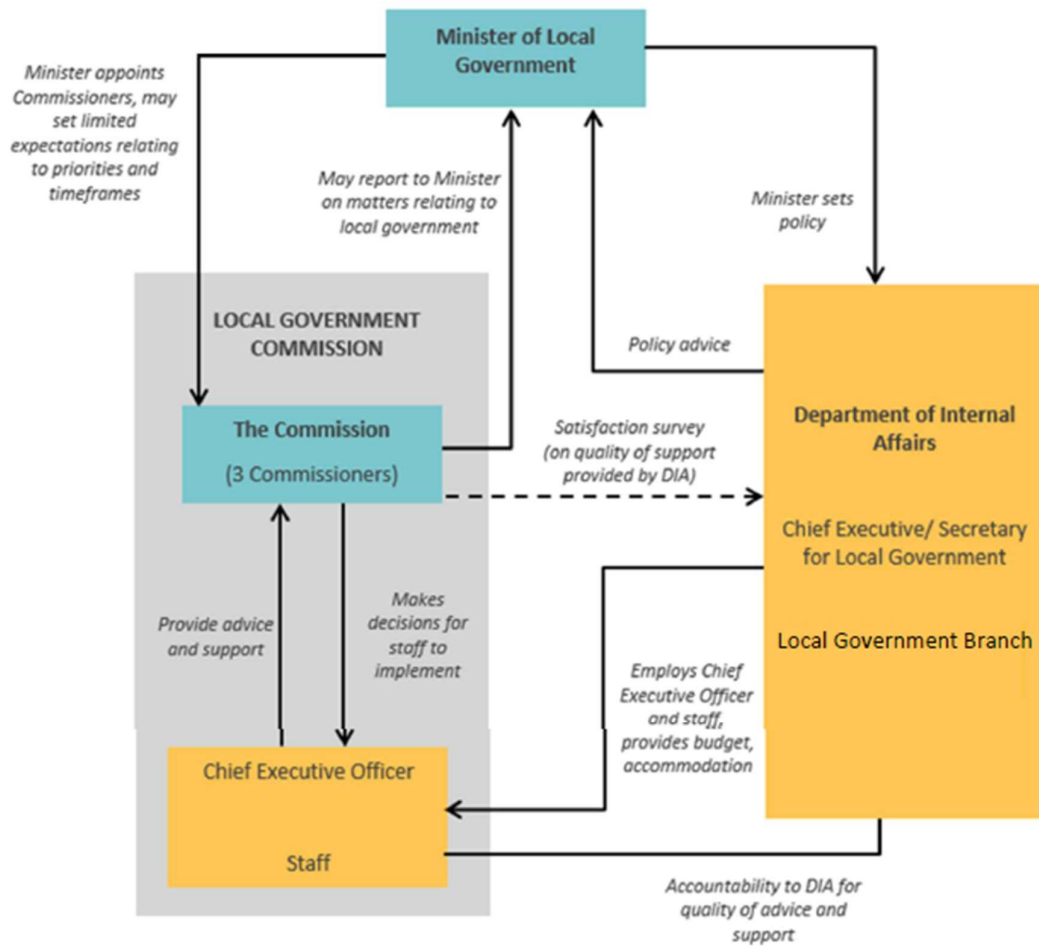
## **Sale and Supply of Alcohol Act 2012**

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.

## **Water Services Entities Act 2022**

Schedule 4 of this Act gives the Commission several responsibilities in respect of proposals by a water services entity to sell or divest an interest in water services on significant infrastructure, and polls on such proposal. These responsibilities include notifying the proposal and preparing balanced information about the proposal, determining the date of the poll, designating the electoral officer to run the poll and deciding whether advertising relating to the proposal by water services entities and local authorities is neutral.

### Current relationship between Minister, Local Government Commission, and the Department of Internal Affairs



## Appendix 4

### **Councils required to undertake representation reviews prior to the 2025 election.**

Ashburton District Council	Otago Regional Council
Auckland Council	Southland District Council
Bay of Plenty Regional Council	Southland Regional Council
Buller District Council	South Wairarapa District Council
Canterbury Regional Council	Tasman District Council
Carterton District Council	Timaru District Council
Central Hawke's Bay District Council	Upper Hutt City Council
Central Otago District Council	Waikato Regional Council
Chatham Islands Council	Waimate District Council
Gore District Council	Wairoa District Council
Greater Wellington Regional Council	Waitaki District Council
Grey District Council	Waitomo District Council
Hauraki District Council	West Coast Regional Council
Hurunui District Council	Western Bay of Plenty District Council
Hutt City Council	Westland District Council
Kaikoura District Council	Whanganui District Council
Napier City Council	

Other councils who are not required to undertake representation reviews in this round may choose to undertake one.