



Local Government Commission  
Mana Kāwanatanga ā Rohe

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Report of the proceedings and operations of the  
**Local Government Commission**  
**Mana Kāwanatanga ā Rohe**  
For the year ended 30 June 2018

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*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 2018.

Yours sincerely

**The Local Government Commission**

Sir Wira Gardiner

Chair

Janie Annear

Commissioner

Brendan Duffy

Commissioner

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## Introduction

The principal roles of the Local Government Commission are to make decisions on the structure of local government and the electoral representation arrangements of local authorities.<sup>1</sup> In the year ending 30 June 2018 the focus of the Commission was on progressing several local government reorganisation processes and providing recommendations to councils involved in those reorganisation processes.

In dealing with reorganisation proposals the Commission has continued to engage with the councils and their communities. The Commission's approach places emphasis on communities themselves identifying the challenges they face, the options that can address those challenges, and the development of greater consensus on the preferred approach to change. The Commission also sees its role as assisting communities to reach sufficient consensus on any changes required to the form of local government that best suits their particular needs.

## Membership<sup>2</sup>

At the beginning of the year the Commission comprised:

- Sir Wira Gardiner (Chairperson) with a term ending on 31 July 2018
- Janie Annear with a term ending on 31 July 2018

There were also two temporary members of the Commission appointed by the Minister of Local Government under clause 5, Schedule 4 of the Local Government Act 2002. They were:

- Geoff Dangerfield, who was appointed for the period 22 August 2016 to 23 February 2018, principally to help with consideration of reorganisation in Auckland. He finished with the Commission on 9 March 2018.
- Brendan Duffy, who was appointed as a temporary Commissioner for the period 1 March 2017 to 28 February 2018, principally to deal with local government reorganisation in the Wairarapa.

On 21 June 2018 Brendan Duffy was appointed as a full Commissioner to the vacancy created by the resignation of Leigh Auton in April 2017. His term was to end on 31 July 2018.

## Local government reorganisation

### Auckland

The Commission continued its consideration of applications for the reorganisation of local government in Auckland. This process had been triggered by receipt of an application for a

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<sup>1</sup> A complete list of the Commission's functions is contained in Appendix 1.

<sup>2</sup> While each Commissioner's term has an end-date, they continue in the role after the end of their term until such time as they are reappointed, they resign, a new Commissioner is appointed to that position or the Minister of Local Government advises they are not to be reappointed.

North Rodney unitary council separate from the Auckland Council. A subsequent application was received for a Waiheke unitary council.

From July to November 2017 the Commission undertook work to determine what options for local government in Auckland met the criteria set out in clauses 11 and 12, Schedule 3 of the Local Government Act 2002. In November 2017, the Commission determined that the options for a North Rodney unitary council and a Waiheke unitary council did not meet the legislative criteria and that its preferred option for local government in Auckland was the status quo.

On 22 December 2017 the Northern Action Group lodged an appeal in the High Court challenging the Commission's decision on its preferred option for local government in Auckland. This appeal is still before the High Court. Our Waiheke, the community group that applied for a Waiheke unitary council, also lodged an appeal but this was subsequently withdrawn.

Following its decision to retain the status quo, the Commission reflected on what it had learnt during the reorganisation process (including the 2016 public engagement programme)<sup>3</sup> and developed a series of recommendations for Auckland Council and the Minister of Local Government under section 31 of the Local Government Act. In its report *Enhancing local government for Aucklanders*, the Commission provided 12 recommendations to Auckland Council and two to the Minister of Local Government. Auckland Council was required to respond to those recommendations by 22 June 2018 and has done so. The report and response can be found on the Commission's website. Auckland Council has also been asked to provide a progress update to the Commission in November 2018.

## Northland Region

In May 2015 the Commission decided that it would not proceed with a reorganisation proposal for a unitary council in Northland. However, options for other forms or reorganisation remained on the table. The Commission said it would continue to work with the community and councils to identify major challenges faced by the councils and options for dealing with them. In 2016 the Commission entered into a Memorandum of Understanding with the Councils to work together around shared services. The Commission continued to meet with the councils' chief executives and the Northland Mayoral Forum in 2017/18 to liaise over the councils' broader shared services arrangements.

In October 2017 the Commission formally decided to end the reorganisation process. However, as a result of its work with the Councils it decided to use its power under section 31 of the Act to make recommendations to the Northland councils. The Commission engaged with the councils during the development of the recommendations to ensure they are meaningful. The recommendations relate to the councils' exploration of shared services

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<sup>3</sup> The public engagement programme, undertaken in September–December 2016, included public meetings, drop-in sessions and an online questionnaire. A summary of community feedback can be found on the Commission's website.

opportunities and the continuation of the collaborative regional approach to their work. A report *Enhancing local government in Northland* was provided to the councils on 29 May 2018. They were asked to respond to the Commission by the end of July 2018.

## Wellington Region

In July 2017 the Commission released a final reorganisation proposal for a combined Wairarapa District incorporating Carterton, Masterton and South Wairarapa districts. Electors of the three existing districts then had the opportunity to request a poll on whether the final proposal should be implemented. Petitions for a poll were received from electors in the Masterton and Carterton Districts. A poll was held on 12 December 2017. The results of the poll were as follows:

Votes for the proposal	6,578	41.24%
Votes against the proposal	9,371	58.76%

As the majority of valid votes cast in the poll were against the proposal it was not implemented.

Following the end of reorganisation processes in the Wellington Region<sup>4</sup> the Commission made a series of recommendations to councils using its powers under section 31 of the Local Government Act. These are outlined in the Commission's report *Strengthening the Wellington region* which was released in December 2017. The recommendations focus on how Wellington's councils can take joint action on the urban area's transport and planning challenges and on the future development of Wellington Water. Councils were asked to respond by 30 April 2018. The Commission has considered the responses received from councils and is no longer actively engaged in work in this region.

## West Coast Region

In August 2015 the Commission received a reorganisation application seeking the constitution of a unitary council covering all of the West Coast.

Throughout the latter half of 2017 the Commission worked to identify the reasonably practicable options and its preferred option for local government on the West Coast. In December 2017 the Commission announced that its preferred option was for the transfer of obligations under the Resource Management Act 1991 to prepare district plans from Buller, Grey and Westland district councils to the West Coast Regional Council. The option included the establishment of a joint committee of the four councils and iwi to be responsible for developing and approving a new combined West Coast district plan.

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<sup>4</sup> In addition to the Wairarapa reorganisation process an earlier process for a Wellington unitary council had halted in June 2015.

Following that announcement, the Commission developed a draft proposal to give effect to its preferred option. The draft proposal was released on 10 April 2018 for public consultation with submissions due by 25 May 2018. Hearings were held in late May on the West Coast to hear from submitters. The Commission is aiming to make a decision on whether or not it will proceed to a final proposal in the latter half of 2018.

## **Representation Reviews**

In 2018 57 councils are required to review their representation arrangements prior to the 2019 triennial local elections. A number of councils have already commenced their reviews. If a council receives appeals or objections to its final representation proposal, or if the proposal does not meet fair representation criteria in the Local Electoral Act 2001, then the proposal must be referred to the Commission for a final determination. All decisions on representation reviews must be made before 11 April 2019.

## **Northland Harbour Board assets**

The Northland Regional Council and the Whangarei District Council jointly requested the Commission to determine the ownership of a groyne in the Waipu River under the Local Government (Northland Reorganisation) Order 1989. The groyne was previously owned by the Northland Harbour Board which was abolished by the 1989 Order. The Order divided the assets of the Northland Harbour Board situated in Whangarei District between the regional council and the district council but did not specifically allocate ownership of the groyne. The Commission determined that the groyne would be vested in the Whangarei District Council.

## **The year ahead**

The primary focus of the Commission in 2018/19 will be the following activities –

- Deciding whether or not to proceed to a final reorganisation proposal for the West Coast and, if a final proposal is released, the implementation of that proposal.
- Responding to representation review proposal appeals, objections and non-compliance that come to the Commission for determination
- Responding to any new reorganisation applications made to the Commission
- Engaging with other agencies over developments and emerging trends in local government

## APPENDIX 1

**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, 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 consider, and where appropriate, make determinations amending the provisions of a final reorganisation scheme where it is satisfied that either-
  - (i) some further or other provision is necessary to enable, or better enable, the intention of the scheme to be put into effect; or
  - (ii) some provision of the scheme is no longer relevant or appropriate to the intention of the scheme;
- (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(1), 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;
- (f) under section 31(1A) to report on and make recommendations to the Minister and any relevant local authority on any matter arising from the performance of its functions;
- (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 assess reorganisation applications for the union, constitution, and abolition of districts and regions, and creation of unitary authorities, boundary alterations, and transfers of responsibility;
- (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**

Under this Act the Commission has two responsibilities:

- (a) under section 318, to determine, where requested, the vesting, control, construction, and maintenance of a road which forms the boundary between territorial authority districts; and
- (b) under section 517T, to 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, 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 1998**

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

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