



LOCAL GOVERNMENT COMMISSION

Determination

**of the application by the Hutt City Council for consent
to the constitution of two new Communities in Lower
Hutt City.**

BACKGROUND

- 1 The Hutt City Council (hereafter referred to as “the Council”), as required by section 101ZG(1)(b) of the Local Government Act 1974 (hereafter referred to as “the Act”), has sought the consent of the Local Government Commission to the constitution of two new Communities in Lower Hutt City.
- 2 There are currently three Communities constituted under the Act in Lower Hutt City - the Eastbourne Community, the Petone Community and the Wainuiomata Community.
- 3 The Council’s proposal is for the constitution of a Western Community and an Eastern Community. The Western Community would cover the areas of the existing Western and Central Wards of the Council and the Eastern Community would cover the areas of the existing Northern and Eastern Wards. With the addition of the two proposed Communities, there would be a system of Communities covering the entire area of the City.
- 4 The Council invited public submissions on its Community proposals at the same time as inviting counter-objections against the proposed membership and basis of election of the Council. More than 70 submissions were received on the Council’s Community proposals and all but 8 were opposed to the proposals.

PROVISIONS OF THE LEGISLATION

- 5 Section 101ZG of the Act provides that a territorial authority may only resolve to constitute a Community with the prior written consent of the Commission. In this

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regard, the powers of the Commission are limited to the matter of whether consent for the Council's proposal should be granted. Therefore, the Commission has no powers to determine an alternative system of Communities for the City.

- 6 In deciding whether or not a Community should be constituted, the Commission is required (as was the Council) to undertake its considerations in accordance with section 101ZL of the Act. This section states:

101ZL. Matters to be considered when constituting community - In deciding whether or not a community should be constituted,-

(a) The territorial authority; or

(b) Where appropriate, the Commission, - shall have regard to such of the criteria that apply to reorganisation proposals by virtue of this Act as the territorial authority or Commission considers appropriate in the circumstances.

- 7 The criteria that apply to reorganisation schemes are contained in sections 37ZQA, 37ZR and 37ZRA of the Act:

37ZQA. Criteria - (1) The principal local authority or the Commission, as the case may be, shall, when considering any reorganisation proposal or any reorganisation scheme, satisfy itself that the proposal or scheme -

(a) Will promote the good local government of the districts concerned; and

(b) Will, in particular, ensure that each proposed local authority and each local authority continued in existence under the proposal -

(i) Will have the resources necessary to enable it to carry out its functions, duties, and powers; and

(ii) Will have a district that is appropriate for the efficient and effective exercise of its functions, duties, and powers; and

(iii) Will contain within its district a sufficiently distinct community of interest or sufficiently distinct communities of interests; and

(iv) Will be able to meet the requirements of section 223C of this Act.

(2) The principal local authority or the Commission, as the case may be, shall, when considering the matters specified in subsection (1) of this section in relation to any reorganisation proposal or any reorganisation scheme, consider -

(a) The area of impact of the functions, duties, and powers of the local authorities concerned; and

(b) The area of benefit of services provided; and

- (c) The likely effects on any local authority of the exclusion of any area from its district; and*
- (d) Such other matters as it considers appropriate.*

37ZR. Boundaries - *The principal local authority or the Commission, as the case may be, shall, in determining boundaries under any reorganisation scheme, ensure that -*

- (a) The boundaries of regions conform, where practicable, with catchment boundaries; and*
- (b) The boundaries of territorial authority districts conform, where practicable, with the boundaries of regions; and*
- (c) The boundaries of regions and the boundaries of territorial authority districts conform with the boundaries of statistical meshblock areas determined by the Department of Statistics and used for Parliamentary electoral purposes.*

37ZRA. Membership - *Where a principal local authority or the Commission is required to determine the membership of a local authority as a consequence of any reorganisation scheme, the principal local authority, or the Commission, as the case may be, shall -*

- (a) Provide for the effective representation of the electors of the local authority; and*
- (b) Comply with the requirements of sections 101C, 101CA, 101D, 101E and 101L of this Act; and*
- (c) Take into account the need to provide effective and accountable local government; and*
- (d) Take into account the functions, duties, and powers of the local authority.*

- 8 The Commission is also of the view that the purposes of local government as set out in section 37K of the Act, and the purposes of community boards as set out in section 101ZY, should be considered in reaching a decision of this matter:

37K. Purposes of local government - *The purposes of local government in New Zealand are to provide, at the appropriate levels of local government, -*

- (a) Recognition of the existence of different communities in New Zealand:*
- (b) Recognition of the identities and values of those communities:*
- (c) Definition and enforcement of appropriate rights within those communities:*
- (d) Scope for communities to make choices between different kinds of local public facilities and services:*
- (e) For the operation of trading undertakings of local authorities on a competitively neutral basis:*
- (f) For the delivery of appropriate facilities and services on behalf of central government:*
- (g) Recognition of communities of interest:*

- (h) *For the efficient and effective exercise of the functions, duties and powers of the components of local government:*
- (i) *For the effective participation of local persons in local government.*
- 101ZY. Purposes of community board** - *The general purposes of a community board shall be -*
- (a) *The consideration of and reporting on of all matters referred to it by the territorial authority or any matter of interest or concern to the community board:*
- (b) *The overview of road works, water supply, sewerage, stormwater drainage, parks, recreation facilities, community activities, and traffic management within the community:*
- (c) *The preparation of an annual submission to the budgetary process of the territorial authority for expenditure within the community:*
- (d) *Communication with community organisations and special interest groups within the community:*
- (e) *To perform such functions as are delegated to it under the authority of section 101ZZ of this Act.*

COMMISSION'S PRELIMINARY CONSIDERATION

- 9 The first matter to be decided upon by the Commission was the process for determining the matter of consent. The Commission had before it a considerable amount of written material provided by the Council, including all relevant officer reports, minutes of relevant meetings, public notices and the public submissions received by the Council on its Community proposals. The Commission also had information on communities of interest in Lower Hutt City gained by it in considering and determining the electoral arrangements of the City for the 2001 local elections. Given the comprehensive nature of the information before it, the Commission decided that it was in a position to reach a decision on the matter of consent on the basis of that material and information.

COMMISSION'S CONSIDERATION

- 10 In considering the legislative criteria in the context of the Council's Community proposals, the Commission took the view that the following matters would need to be satisfactorily addressed before consent would be granted:
- each proposed Community should contain within it a sufficiently distinct community of interest or sufficiently distinct communities of interest
 - each proposed Community should provide appropriate recognition for communities of interest
 - the proposed Communities should promote the good local government of Lower Hutt City.

- 11 The Commission notes that the existing Communities of the City cover discrete and readily identifiable communities of interest. They provide a formal structure by which matters of local interest can be discussed and addressed, and provide an additional means for local residents to participate in the democratic processes of the City.
- 12 The proposed Western Community would cover the areas of the Western and Central Wards of the City. This combined area would take in the Central Business District of the City, together with residential areas on the valley floor and the Western Hills. Within this combined area, the Commission considers that there are two relatively disparate communities of interest - the Western Hills area, with its residential focus, hilly terrain, limited access and limited Council facilities; and the Central city area, with its focus on the Central Business District, good roading network and wide range of Council facilities.
- 13 The proposed Eastern Community would cover the areas of the Northern and Eastern Wards of the City. The proposed Community would extend from Waiwhetu and Waterloo in the south to Stokes Valley in the north. In the view of the Commission it would encompass a number of discrete communities of interest, each with differing characteristics and limited commonalities of interest. The Commission also notes that although the two wards are adjoining there is a distinct physical division between the northern-most suburb of the Eastern Ward (Naenae) and the nearest suburb of the Northern Ward (Taita). This division is likely to limit the natural linkages between the two parts of the proposed Community.
- 14 The Commission considers that the Council's proposals fail when assessed against the three matters outlined in paragraph 10. The Commission is concerned that the proposed Communities would each cover distinct and disparate areas of population that have little commonality of interest. Each proposed Community would contain within it a number of areas that have their own sense of identity at a local level and their own socio-economic characteristics. It is not confident that the proposals, if given effect to, would provide effective representation for communities of interest, or provide appropriate recognition for the distinct communities of interest that would be contained within the proposed Communities. The population areas covered by the proposed Communities are diverse, and in some cases not particularly well linked, which would make it somewhat difficult for members of community boards in the proposed Communities to keep apprised of local issues and concerns, and for effective communications to be developed with local community organisations and special interest groups. Overall, the Commission does not consider that the Council's proposals would promote the good local government of Lower Hutt City.
- 15 In reaching its decision, the Commission was mindful of the strong degree of dissatisfaction expressed against the Council's Community proposals in submissions received by the Council. The submissions reveal a strong aspiration among

submitters for a strengthened system of Communities in Lower Hutt City, but indicate that the Council's proposals were not in accord with those aspirations.

GENERAL COMMENT

- 16 Section 101ZL of the Act requires the Council to have had regard to the criteria applying to reorganisation schemes, to the extent considered appropriate by the Council, in formulating its proposals. Although the legislative criteria are referenced in the officer reports to Council, the minutes of the relevant Council meetings do not demonstrate that the proposals were assessed by the Council in any substantive manner against the legislative criteria. The Commission is of the view that the relevant legislative criteria would provide an effective framework to assist the Council in reaching a decision in respect of any future Community proposals.

DETERMINATION

- 17 Under section 101ZG(1)(b) of the Act, the Commission declines to grant consent to the Council's proposals for the establishment of a Western Community and an Eastern Community in Lower Hutt City.

THE LOCAL GOVERNMENT COMMISSION

Barbara Durbin (Commissioner)

Bruce Anderson (Commissioner)

2 May 2001