



**LOCAL GOVERNMENT COMMISSION**  
***MANA KĀWANATANGA Ā ROHE***

**Determination on the proposal for the transfer  
of the Rangitaiki Ward from Whakatane District to Kawerau  
District**

**17 May 2011**

## **Introduction**

1. This document sets out the findings and decision of the Local Government Commission (the Commission) on an elector-initiated reorganisation proposal (the proposal) for the transfer of the Rangitaiki Ward from Whakatane District to Kawerau District.
2. The statutory process for considering such proposals is set out in Schedule 3 of the Local Government Act 2002 (LGA). The decision is required by clause 39 of Schedule 3 of the LGA.

## **Background**

3. A petition seeking a boundary change between Whakatane District and Kawerau District, to provide for the transfer of the Rangitaiki Ward from Whakatane District to Kawerau District, was lodged with the Whakatane District Council and the Kawerau District Council on 20 July 2010.
4. On 29 July 2010 the electoral officer for the Whakatane District advised that the proposal had been signed by more than the required 10% of electors of the area subject to the proposed reorganisation (i.e. by more than 630 of the 6304 electors of the Rangitaiki Ward of Whakatane District). The proposal was therefore a valid proposal under clause 1(1) of Schedule 3.
5. On 6 September 2010 the Commission received advice that the Whakatane District Council and the Kawerau District Council had each resolved to refer the proposal to the Commission for consideration.
6. At its meeting on 21 September 2010 the Commission agreed, under clause 36 of Schedule 3 of the LGA, to appoint Bill Hutchinson as representative of electors in relation to the proposal.
7. The Commission publicly notified the proposal on 20 October 2010 and called for submissions by 20 December 2010. A total of 574 submissions were received by the closing date with a further 39 late submissions subsequently received and considered.
8. Of the 613 submissions received:
  - 250 supported the proposal;
  - 338 opposed the proposal;
  - 19 were neutral; and
  - 6 did not state a position.
9. The proposer (Bill Hutchinson) was provided a copy of the submissions and the opportunity to withdraw the proposal pursuant to clause 38 of Schedule 3 of the LGA. On 14 January 2011 the Commission received advice from Mr Hutchinson that he wanted the Commission to proceed with the proposal.

10. The Commission met in Whakatane on 3 March 2011 with the representative of electors, the Whakatane District Council, the Kawerau District Council and the Rangitaiki Community Board. A further meeting was held on 5 and 6 April at which the Commission met with 30 other submitters.
11. Following the meeting with the proposer and affected local authorities, and after any further inquiries that the Commission wished to make, the Commission was required under clause 39 of Schedule 3 of the LGA to decide:
  - whether to prepare a draft reorganisation scheme based on the proposal or on some modification or variation of the proposal resulting from consideration of the submissions, consultations or inquiries; or
  - not to proceed with the proposal.

### **Statutory Criteria**

12. Clause 3 of Schedule 3 of the LGA provides that:
  - (1) *When considering a reorganisation proposal or scheme ... the Commission must satisfy itself that the proposal or scheme will –*
    - (a) *promote good local government of the districts or regions concerned; and*
    - (b) *ensure that each local authority provided for under the proposal will –*
      - (i) *have the resources necessary to enable it to carry out its responsibilities, duties, and powers; and*
      - (ii) *have a district or region that is appropriate for the efficient and effective performance of its role as specified in section 11; and*
      - (iii) *contain within its district or region a sufficiently distinct community of interest or sufficiently distinct communities of interest; and*
      - (iv) *be able to meet the requirements of section 76.*
  - (2) *When considering the matters specified in subclause (1) in relation to any reorganisation proposal or scheme ... the Commission must have regard to –*
    - (a) *the area of impact of the responsibilities, duties, and powers of the local authorities concerned; and*
    - (b) *the area of benefit of services provided; and*
    - (c) *the likely effects on a local authority of the exclusion of any area from its district or region; and*
    - (d) *any other matters that it considers appropriate.*
13. The Commission has previously agreed that the main criterion – ensuring that the proposal will promote good local government – requires it to consider whether the proposal will result in *improved* local government arrangements in

the area.<sup>1</sup> These arrangements will need to result in local authorities that can give *better* effect to the role and purpose of, and principles relating to, local authorities. These elements of good local government are set out in sections 10, 11 and 14 of the LGA.

### **Consideration against statutory criteria**

14. Submitters supporting the proposal were generally not concerned about the appropriateness of the current boundaries per se. Rather they conveyed a desire to move from one district to another because they perceived that the decisions of the new local authority might be more to their liking.
15. The majority of reasons given in support of this proposal relate to dissatisfaction with decisions by the Whakatane District Council, the level and types of services provided by that Council or the actions of council members and staff. A viewpoint commonly expressed by those supporting the proposal was that the Kawerau District Council is a well run local authority and it was believed that it would make decisions and provide services more to the liking of submitters. However, these are not matters relevant to the criteria for considering reorganisation proposals.
16. In general terms the criteria relate to the structure of the affected local authority boundaries, and the affect of those boundaries on the ability of the local authority to provide good local government. In considering a reorganisation proposal it is not the role of the Commission to evaluate the performance of local authorities. A Council's performance is not relevant to what the structure and boundaries should be unless the structure or boundaries create impediments to effective planning and decision-making or the efficient delivery of services. An opinion that performance of a local authority is good or bad is a matter of perception. It is also something subject to change from time to time as a council's priorities change or as demands placed on the council change.
17. After reviewing the submissions made on this proposal and the information provided to it at the hearings we concluded that insufficient evidence had been provided to support the notion that the proposal would promote good local government.
18. Notwithstanding the comments above we have considered the proposal against the criteria listed in clause 3 of Schedule 3. Our observations on these are set out below.

### **Would local authorities have the resources necessary to carry out their responsibilities?**

19. We did not specifically assess whether, if the proposal was to be implemented, the two affected local authorities would have the resources necessary to carry out their responsibilities. If we had considered the proposal to have merit we would have done so.

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<sup>1</sup> The Commission considers that in the context of the legislation, the word "promote" should have the meaning of: to advance, enhance, or improve local government arrangements.

20. However, in considering the question of resources the Commission is required to consider the likely effects on a local authority of the exclusion of any area from its district. The Whakatane District Council advised that the removal of the Rangitaiki Ward from its district would have a number of impacts. Amongst these were the loss of -
- 28% of the district's rating base;
  - 41% of the roading network; and
  - 36% of the water supply assets.
21. The loss of these from Whakatane District would result in the need for a smaller local authority administration but possibly with higher costs to be spread over the remainder of the district and a reduced capacity to deal with issues affecting the district.
22. We do not see this as promoting good local government. Rather it may result in a weakening of local government in the eastern Bay of Plenty through lessening the council's ability to deal with the strategic issues facing the community. Any decrease in scale would be exacerbated by the community of interest based on Whakatane being divided between two districts.
23. At the same time the nature of Kawerau District would change significantly. It would change from being a compact urban district to a mixed urban/rural district with a range of different functions and a different focus. Again if we had considered the proposal to have some merit we would have needed to consider the ability of the Kawerau District Council to make this transition in a cost effective manner.

**Would districts be appropriate for the efficient and effective performance of the roles of local authorities?**

24. The Commission is required to consider the area of benefit of services provided by the particular local authorities and the likely effects on those local authorities of the exclusion of any area from their district or region. The boundary of the Rangitaiki Ward is adjacent to the town Whakatane town. A number of facilities provided by the Whakatane District Council are located in Whakatane town and provide services and benefits to a far wider catchment. We do not consider the demand for those services would change if the proposal was implemented. Establishing this boundary as the district boundary would therefore be an artificial exercise and not be appropriate for the efficient and effective performance of the roles of the affected local authorities. It could create barriers to the future provision of facilities for the benefit of the wider eastern Bay of Plenty communities.

**Would the affected districts contain sufficiently distinct communities of interest?**

25. We heard from a number of submitters about the degree to which Whakatane or Kawerau meet their day to day needs for shopping, education, medical services and social involvement. Views varied significantly as to which town met those needs.
26. It is true of course that Kawerau is surrounded by the Rangitaiki Ward and because of this it could act as a focal point and centre for those living in the surrounding part of Whakatane District. It is equally correct, however, that

large parts of the Rangitaiki Ward are directly adjacent to or in close proximity to Whakatane township. On the whole the more densely populated parts of the Rangitaiki Ward are those closest to Whakatane. We formed the view that these areas form part of the wider community of interest of Whakatane and that community of interest would not logically be split. The existing Kawerau District on the other hand constitutes a distinct community of interest covering the urban area of Kawerau.

27. After considering the submissions and other information provided to us we formed the view that implementing the proposal would not result in local government boundaries that better reflected distinct communities of interest than the current boundaries.

### **Would local authorities be able to meet the requirements of section 76?**

28. Section 76 relates to decision-making and consultation by local authorities. We have concluded that the proposal would have little impact on the ability of either of the affected local authorities to maintain processes that comply with section 76.

### **Other matters**

29. We have commented that a number of submitters were dissatisfied with the Council for various reasons. It must be said that a number of submitters opposed the proposal, more than half in fact. The reasons cited included -
- (a) a view that the current boundaries appropriately reflect communities of interest;
  - (b) satisfaction with the Whakatane District Council; and
  - (c) a view that although the Council's relationship with elements of the community may have been poor in the past there is a feeling that the relationship is now working and optimism about how it would work in the future.
30. There are a variety of ways in which members of the community can attempt to change the policies or approach of their local authority or seek redress for actions or decisions they do not agree with.
31. These include, but are by no means restricted to –
- lobbying the council either individually or through representative organisations;
  - participating in the electoral process, through voting, standing for election or actively supporting like minded people standing for election;
  - participating in the various consultative processes run by the council; and
  - seeking the assistance of organisations such as the Office of the Ombudsmen or the Office of the Auditor General on issues of specific concern.
32. We see these as being more constructive alternatives to an area opting out of the district and its community.

### **Commission's determination**

33. Having assessed the proposal and all submissions made on it, against the criteria contained in clauses 3 and 4 of Schedule 3 of the Local Government Act 2002, the Commission has decided under clause 39 of Schedule 3 not to proceed with the proposal. It finds that the proposal would not promote good local government of each of the districts concerned.

### **THE LOCAL GOVERNMENT COMMISSION**

Sue Piper (Chair)

Gwen Bull (Commissioner)

Grant Kirby (Commissioner)

17 May 2011