



Local Government Commission
Mana Kāwanatanga ā Rohe

Report of the proceedings and operations of the
Local Government Commission
Mana Kāwanatanga ā Rohe
For the year ended 30 June 2019

*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 2019.

Yours sincerely

The Local Government Commission

Janie Annear
Brendan Duffy

Commissioner
Commissioner

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Introduction

The principal roles of the Local Government Commission are to make decisions on reorganising the structure of local government and on the electoral representation arrangements of local authorities.¹ In the year ending 30 June 2019, the Commission was involved with both. It dealt with a number of reorganisation processes as well as determining representation arrangements for 35 local authorities.

Membership

At the beginning of the year the Commission comprised:

- Sir Wira Gardiner (Chairperson)
- Janie Annear
- Brendan Duffy

On 21 September 2018, Sir Wira Gardiner resigned as Chairperson of the Commission. Consequently, on 7 November 2018 the Minister of Local Government appointed Pita Paraone as Chairperson of the Commission.

Although not strictly within the period covered by this report, the Commission acknowledges with regret the death of its Chair, Pita Paraone who passed away on 26 August 2019.

The Commission also acknowledges the death in March 2019 of Ian Lawrence who was Chairperson from 1993 to 1998.

Local government reorganisation

Auckland

In November 2017, the Commission determined that proposals for a North Rodney unitary council and a Waiheke unitary council, separate from the Auckland Council, should not proceed, and that its preferred option for local government in Auckland was the status quo. In December 2017 the Northern Action Group (which had proposed a North Rodney unitary council) lodged an appeal in the High Court challenging the Commission's decision. Although the High Court has dealt with several procedural issues, as at 30 June 2019 the substantive matters of the appeal had not been considered by the Court.²

Following the above decision, the Commission reflected on what it had learnt during the reorganisation process 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 made 12

¹ A complete list of the Commission's functions is contained in Appendix 1.

² A hearing in the High Court has been scheduled for 30 September and 1 October 2019.

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 did so. The Council was also asked to provide a progress update to the Commission in November 2018 which it did.

Northland Region

When the Commission decided in 2015 not to proceed with reorganisation in the Northland Region it 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. Following on from this work, the Commission decided to use its power under section 31 of the Local Government Act to make recommendations to the Northland councils. The recommendations related to the councils' exploration of shared services opportunities and the continuation of a 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. They did so, advising their commitment to working together including their recent decision to provide Civil Defense Emergency Management through a shared service model.

The Commission is committed to continue working with the Northland councils to help them achieve their objectives in this area.

West Coast Region

In September 2018, the Commission issued a final reorganisation proposal for the West Coast Region to have a combined district plan under the Resource Management Act. This was to be achieved by the transfer of the responsibility for preparing and maintaining district plans from the three district councils in the region to the West Coast Regional Council. Direct responsibility for preparing and approving the combined plan was to be delegated to a joint committee comprising two representatives from each of the four councils in the region and two iwi representatives along with an independent chairperson. The final proposal was implemented by Order in Council in November 2018.

A subsequent step in the process was the issue by the Commission of a reorganisation scheme setting out more detailed arrangements for the functioning of the joint committee. This followed work to agree these details by a transition board which mirrored the membership of the proposed joint committee. The agreed reorganisation scheme was given effect to by a second Order in Council in June 2019.

The joint committee was to come into being in July 2019.

Horowhenua District/Palmerston North City boundary alteration

In November 2018, the Commission received a reorganisation application from residents for the transfer of the Tokomaru and Opiki areas from Horowhenua District to Palmerston North City. The Commission agreed to assess the application and then, in April 2019, called

for alternative applications. One response to the call for alternative applications was received.

Western Bay of Plenty District/Tauranga City boundary alteration

In November 2018, the Commission received a reorganisation application from the Western Bay of Plenty District Council for the transfer of an area (called Tauriko West) from the district to Tauranga City. This application had been developed in cooperation with the Tauranga City Council.

The Commission agreed to assess the application and then, in March 2019, called for alternative applications. Seven responses to the call for alternative applications were received, several identifying possible additional boundary alterations.

In June 2019, the Commission met alternative applicants and received a technical briefing from council officers on the potential implications of the possible additional changes.

Golden Bay local board

In October 2018, the Commission received a reorganisation application from residents seeking the establishment of a local board for the Golden Bay Ward of Tasman District. If agreed, the board would replace the existing Golden Bay Community Board. The Commission agreed to assess the application

Following meetings with the interested parties in February 2019, the Commission called for alternative applications in May 2019. Five responses to the call for alternative applications were received.

Representation reviews

The Commission was required to consider 35 representation reviews carried out under the Local Electoral Act 2001 because appeals or objections were lodged against the local authorities' decisions or solely because, in some cases, proposed representation arrangements did not comply with section 19V(2) of the Act and for which exemptions were sought³. The Commission's determinations on those reviews are summarised in the following table:

³ Section 19V(2) of the Local Electoral Act 2001 requires a council and the Commission to ensure that the population of each ward, constituency or subdivision, divided by the number of members to be elected from each area produces a figure no more than 10% greater or smaller than the population of the district, region or community board area divided by the total number of elected members of the body concerned. This is referred to as the '+/-10% rule'. Section 19V(3) enables the Commission to grant exceptions if one of the criteria listed in section 19V(3) is met.

| Local authority | Number of appeals or objections | Council's proposal | Commission's decision |
|-----------------------------|---------------------------------|---|--|
| Ashburton District Council | 3 | <ul style="list-style-type: none"> 9 councillors elected from 3 wards (compared to the current 12 councillors elected from 3 wards) 1 community board | Council's proposal upheld |
| Auckland Council | 8 | <ul style="list-style-type: none"> 20 councillors elected from 13 wards (with the boundaries of some wards being altered) 149 local board members elected from 21 local boards The Manurewa-Papakura, Maungakiekie-Tāmaki, Ōrākei, Rodney, and Waitemātā and Gulf wards not complying with section 19V(2) The Botany Subdivision of the Howick Local Board, and the Wellsford Subdivision of the Rodney Local Board not complying with section 19V(2) | Council's proposal upheld |
| Buller District Council | 1 | <ul style="list-style-type: none"> 10 councillors elected from 3 wards 1 community board The Seddon Ward not complying with section 19V(2) | Council's proposal upheld |
| Clutha District Council | 2 | <ul style="list-style-type: none"> 14 councillors elected from 8 wards (with some changes to existing boundaries) 2 community boards The name of the Lawrence-Tuapeka Community Board changed to Tuapeka | Council's proposal upheld, except that the name of the Lawrence-Tuapeka Community Board was unchanged |
| Gisborne District Council | 59 | <ul style="list-style-type: none"> 9 councillors elected at large (compared to 13 councillors elected from 5 wards at present) 3 community boards (compared to no community boards at present) | Council's proposal not upheld, and the existing arrangements retained |
| Hamilton City Council | 1 | <ul style="list-style-type: none"> 12 councillors elected from 2 wards | Council's proposal upheld |
| Hauraki District Council | 6 | <ul style="list-style-type: none"> 12 members elected from three wards The Waihi Ward not complying with section 19V(2) | Council's proposal not upheld. The Waihi Ward was allocated an additional councillor making it compliant with section 19V(2) |
| Horowhenua District Council | 4 | <ul style="list-style-type: none"> 10 members elected from 4 wards 1 community board The Kere Kere Ward not complying with section 19V(2) | Council's proposal upheld |

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|-----------------------------------|---|--|---|
| Hutt City Council | 2 | <ul style="list-style-type: none"> 12 councillors elected from 6 wards 3 community boards | <p>Council's proposal for council membership not upheld, and instead a council comprising:</p> <ul style="list-style-type: none"> 6 councillors elected at large 6 councillors elected from 6 wards |
| Kaipara District Council | 4 | 8 members elected from 4 wards (compared to the present 3 wards) | Council's proposal upheld |
| Matamata-Piako District Council | 3 | <ul style="list-style-type: none"> 11 councillors elected from 3 wards The Te Aroha Ward not complying with section 19V(2) | Council's proposal upheld |
| Napier City Council | 2 | 12 members elected from 4 wards (compared to 6 members elected from 4 wards and 6 members elected at large) | Council's proposal upheld |
| Otorohanga District Council | - | The Aotea and Kawhia subdivisions of the Kawhia Community not complying with section 19V(2) | Council's proposal upheld |
| Palmerston North City Council | 4 | 15 councillors elected at large | Council's proposal upheld |
| Queenstown-Lakes District Council | - | The Arrowtown Ward not complying with section 19V(2) | Council's proposal upheld, except for a minor boundary change |
| Rangitikei District Council | 4 | <ul style="list-style-type: none"> 11 councillors elected from 3 wards (compared to the existing 5 wards) 2 community boards | Council's proposal upheld |
| South Taranaki District Council | - | The Patea Ward not complying with section 19V(2) | Council's proposal upheld |
| Southland District Council | 8 | <ul style="list-style-type: none"> 12 councillors elected from 5 wards (with boundary changes to existing wards) Stewart Island/Rakiura Ward not complying with section 19V(2) 9 community boards covering the whole district (compared to the existing 7 boards covering part of the district) | <p>Council's proposal upheld, subject to:</p> <ul style="list-style-type: none"> Changes to 3 ward boundaries The renaming of 1 ward Changes to the membership of the Oreti Community Board Establishing subdivisions in the Northern Community |

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|--|----|--|--|
| Tasman District Council | - | The Golden Bay and Moutere-Waimea wards not complying with section 19V(2) | Council's proposal upheld |
| Taupo District Council | 1 | <ul style="list-style-type: none"> 11 councillors elected from 4 wards (compared to the current 10 councillors elected from 3 wards) 1 community board The Mangakino-Poukani, Taupō and Turangi-Tongariro wards not complying with section 19V(2) | Council's proposal upheld |
| Waikato District Council | 3 | <ul style="list-style-type: none"> 13 councillors elected from 10 wards (with some boundary changes) The Awaroa ki Tuakau Ward not complying with section 19V(2) 5 community boards (with boundary changes to the Onewhero-Tuakau Community) | Council's proposal upheld with an additional boundary change |
| Waimate District Council | - | The Lower Waiho Ward not complying with section 19V(2) | Council's proposal upheld |
| Waitaki District Council | - | The Ahuriri Ward not complying with section 19V(2) | Council's proposal upheld |
| Wellington City Council | - | The Motukairangi/Eastern and Paekawakawa/Southern wards not complying with section 19V(2) | Council's proposal upheld |
| Western Bay of Plenty District Council | 11 | <ul style="list-style-type: none"> 11 councillors elected from 3 wards (with a minor alteration to existing boundaries) Retention of 4 community boards Abolition of the Omokoroa Community Board | <p>Council's proposal upheld, except for:</p> <ul style="list-style-type: none"> Retention of the Omokoroa Community Board An additional minor boundary alteration |
| Whanganui District Council | - | The Whanganui Subdivision of the Whanganui Community not complying with section 19V(2) | Council's proposal upheld |
| Whangarei District Council | 1 | 13 members elected from 6 wards (with some boundary alterations to current wards) | Council's proposal upheld, except for a minor boundary change |

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|-------------------------------------|-----|---|---|
| Bay of Plenty Regional Council | - | The Eastern Bay of Plenty and Rotorua constituencies not complying with section 19V(2) | Council's proposal upheld |
| Environment Canterbury | 201 | <ul style="list-style-type: none"> 14 members elected from 7 constituencies The North Canterbury/ Ōpukepuke, Christchurch North East/Ōrei, Christchurch Central/ Ōhoko, and South Canterbury/ Ōtuituhi constituencies not complying with section 19V(2) | Council's proposal upheld |
| Hawke's Bay Regional Council | - | The Central Hawke's Bay, Napier, Ngaruroro and Wairoa constituencies not complying with section 19V(2) | Council's proposal upheld |
| Manawatu-Whanganui Regional Council | 2 | <ul style="list-style-type: none"> 12 councillors elected from 6 constituencies The Ruapehu, Tararua and Whanganui constituencies not complying with section 19V(2) | Council's proposal upheld, except for reconfiguration of the Manawatū-Rangitikei and Horowhenua-Kairanga constituencies into a new Manawatū-Rangitikei Constituency and new Horowhenua Constituency |
| Northland Regional Council | 1 | <ul style="list-style-type: none"> 9 members elected from 7 constituencies (with some boundary changes to existing constituencies) The Hokianga-Kaikohe Constituency not complying with section 19V(2) | Council's proposal upheld |
| Southland Regional Council | - | The Fiordland, Invercargill-Rakiura and Southern constituencies not complying with section 19V(2) | Council's proposal upheld but with changes to the boundaries of the Eastern-Dome, Hokonui and Southern constituencies |
| Taranaki Regional Council | - | The South Taranaki and Stratford constituencies not complying with section 19V(2) | Council's proposal upheld |
| Greater Wellington Regional Council | 2 | <ul style="list-style-type: none"> 13 members elected from 6 constituencies (with minor a boundary change and some constituency names changed) The Kāpiti, Te Awa Kairangi ki Tai/Lower Hutt and Wairarapa constituencies not complying with section 19V(2) | Council's proposal upheld |

The year ahead

The primary focus of the Commission in 2019-2020 will be the following activities:

- Dealing with the reorganisation applications currently before it, and any new applications it receives
- Applying to those applications the new reorganisation procedure anticipated to be enacted by the Local Government Act 2002 Amendment Bill (No. 2) later in 2019
- Continuing to work with the councils in the Northland Region on their aspirations for shared services

In addition, the Commission will begin its preparations for the next round of representations to take place over 2021 and 2022 by reviewing its representation review guidelines, by providing data to councils to assist with their reviews and by participating in fora providing briefing and training for those involved in the process.

It is also anticipated that the Chairperson of the Commission will be involved in the Representation Commission's review of parliamentary electorates following the release of the 2018 census.

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

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