

**IN THE HIGH COURT OF NEW ZEALAND
WELLINGTON REGISTRY
I TE KOTI MATUA O AOTEAROA
TE WHANGANUI-A-TARA**

CIV-2018-485-013

UNDER: Schedule 5, clause 2(1) of the Local Government Act 2002 ("Act")

IN THE MATTER OF: an appeal against a decision of the Local Government Commission made under clause 11(1) of Schedule 3 of the Act to determine that the status quo is their preferred option.

BETWEEN: **NORTHERN ACTION GROUP incorporated**, an incorporated society, which made the application the subject of the decision under appeal

Appellant

AND: **THE LOCAL GOVERNMENT COMMISSION** a statutory body formed pursuant to the Act at Wellington

Respondent

**NOTICE OF APPEAL BY APPELLANTS AGAINST DECISION OF THE
LOCAL GOVERNMENT COMMISSION**

DATED 30TH NOVEMBER 2017

Northern Action group Inc. c/- William Reid Townson-Chairman of 3 Point St.,
Mahurangi East, RD2 Warkworth 0982. Ph (09) 4256121
Email<Bimon@xtra.co.nz>

To: the Registrar at the High Court at Wellington

And to: the respondent

This document notifies you that -

1. This appeal is against the decision by the Local Government Commission ("the Commission") on 30 November 2017 ("the decision"). The decision determined that the preferred option for Auckland reorganization was the status quo in response to the application by the Northern Action Group Inc for reorganisation lodged on 4 November 2013 ("the application") and which the Commission agreed to assess on 13 August 2015. The application proposed the constitution of a new region under section 24(l)(b) of the Act by separation of the 'North Rodney' portion of the Auckland region from Auckland Council and the creation of North Rodney Unitary Council.
2. The appeal is against the whole of the decision.

QUESTIONS OF LAW

3. The questions of law are:
 - (A) Did the Commission misinterpret and/or misapply sections 10 and 24AA and/or clauses 2, 10, 11, and 12 of Schedule 3 of the Act?
 - (B) Did the Commission err in law in taking into account or giving the weight it did to the impact on Auckland Council as an organisation?
 - (C) Did the Commission or any Commissioner involved in the application approach the decision without an open mind or have an element of Bias in processing the application?

SPECIFIC GROUNDS OF APPEAL

4. The Commission misinterpreted and/or misapplied Sections 10 and 24AA and clauses 2, 10, 11, and 12 of Schedule 3 of the Act by:
- (a) Failing to follow the purpose of local government as required by Section 10 of the act
 - (b) Failing to improve the effectiveness and efficiency of Local Government in North Rodney contrary to Section 24AA of the act
 - (c) Failing to adequately allow the community the opportunity to participate in considering, alternative local government arrangements for their area contrary to Section 24AA of the act
 - (d) Failing to engage with the community in the manner expected by the act when determining all the reasonably practicable options for local governance in their area contrary to Section 24AA
 - (e) Wrongly declaring that the 'affected area' for the purpose of the application would be the whole Auckland city contrary to Schedule 3 clause 2 'affected area' subclause (c) which requires the operational scale, scope, or capability of the whole of Auckland city to be materially affected for it to be an affected area.
 - (f) Wrongly allowing a large number of 'proposals' received under clause 9 of Schedule 3 as 'alternative proposals' which did not comply with all the requirements of Clause 5 of Schedule 3 as 'alternative proposals' contrary to clause 10 of Schedule 3
 - (g) Failing to identify all the reasonably practical options for local governance in the area contrary to clause 11 (2) of Schedule 3 by

- (i) failing to include in its "long list" of options for evaluation the reorganization proposal which it accepted for assessment in the first place
 - (ii) failing to properly assess the options that were reasonably practical by making its decisions on the financial viability of options in reliance on questionable information from Auckland City and assumptions made without empirical evidence and support
 - (iii) determining a long list of options for evaluation some of which would clearly fail the test for a reasonably practical option and thus eliminating possible preferred options by exclusion from consideration
 - (iv) erring in ignoring the compelling and relevant evidence of the APR report provided to them on the grounds that it was received by the Commission after a self-imposed deadline even though they knew this report was being prepared before that deadline passed.
 - (v) failing to have regard to the benefits of other options contrary to clause 11 (3) of Schedule 3 by only allowing for the cost of Community boards without considering the potential cost savings of the 'Community Empowerment' model presented in the application, which that experience has shown elsewhere to be considerable and by refusing to consider potential efficiencies through different service levels or units costs or shared services achievable by a different council
- (h) failing to properly apply clause 11 (5) of Schedule 3 by:
- (i) Failing to properly determine under subclause (a) if a North Rodney Unitary Council would have sufficient resources by narrowly confining its investigations to only the Auckland Council experience, relying too heavily on in-house opinion, and explicitly rejecting resource sharing possibilities

- (ii) Failing to properly apply subclause (b) by adopting a conception that size alone is the determining factor for the efficient performance of the role of a unitary Council without providing any supporting empirical evidence.
 - (iii) failing to recognize under subclause (d) that a North Rodney Unitary Council can effectively deal with catchment based flooding and water management in the area - as attested by the ML report.
 - (iv) Failing to apply Clause 12 requiring the preferred option to promote good local Governance by improving efficiency, productivity and simplified planning.
5. The Commission erred in law in taking into account or giving the weight to the impact on Auckland Council as an organisation as this factor had been statutorily assessed by the moratorium on reorganisation applications prescribed by section 9 of the Local Government (Auckland Transitional Provisions) Act 2010.
6. The Commission erred in law and displayed bias by their conduct in public meetings and their published statements which have exhibited a preference for local authority amalgamation and what they refer to as "single voice" representation.

RELIEF SOUGHT

7. The appeal seeks the following relief:
- (A) The decision be set aside;
 - (B) The Commission be directed to assess the application in accordance with the Court's findings on questions of law;
 - (C) The Commission pay the costs of the Appellants.

8. This application is made in reliance on Schedule 5 of the Local Government Act 2002 and Part 20 of the High Court Rules.

DATED this 22nd day of December 2017



W R Townson

Chairman – Northern Action Group Inc.

THIS NOTICE OF APPEAL is filed by William Reid Townson Chairman and spokesperson for the appellant. The address for service of the appellant is at the address of the chairman, namely 3 Point St ., Mahurangi East Rd 2 Warkworth 0982

Documents for service on the above-named appellant may be left at that address for service or may be:

- (a) Posted to Townson RD2 Warkworth 0982
- (b) Electronically transmitted to Bimon@xtra.co.nz with a copy to Bill Foster <foster.bill@me.com>