



LOCAL GOVERNMENT COMMISSION
MANA KĀWANATANGA Ā ROHE

**Determination on the proposal for the transfer
of Waihi Beach Ward from Western Bay of Plenty District
to Hauraki District**

December 2010

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 Waihi Beach Ward from Western Bay of Plenty District to Hauraki 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 Western Bay of Plenty District and Hauraki District, to provide for the transfer of Waihi Beach Ward from Western Bay of Plenty District to Hauraki District, was lodged with the Hauraki District Council (HDC) and Western Bay of Plenty District Council (WBoPDC) on 21 December 2009. Copies of the petition were subsequently lodged with the Bay of Plenty Regional Council and Environment Waikato.
4. On 13 January 2010 the electoral officer for the WBoPDC confirmed that the number of signatories exceeded the threshold to initiate a reorganisation proposal (i.e. it was signed by at least 10 per cent of the electors of Waihi Beach Ward).
5. Discussions were held between the two local councils and the two regional councils (being the four councils affected by the proposal). The councils did not reach agreement on how to deal with the proposal. On 18 February 2010, they referred it to the Commission for consideration in accordance with clause 10(3) of Schedule 3 of the LGA.
6. On 4 May 2010 the Commission appointed Brian Heppenstall as representative of electors in relation to the proposal.
7. The Commission publicly notified the proposal on 28 May 2010 and called for submissions by 27 July 2010. A total of 130 submissions were received by the closing date (including one submission in opposition to the proposal signed by 363 people).
8. Of the 130 submissions received on time, approximately 90 per cent opposed the proposal and 10 per cent supported it. A further four late submissions were received (one in support and three opposed to the proposal).
9. The proposer was provided with a copy of the submissions and the opportunity to withdraw the proposal pursuant to clause 38 of Schedule 3 of the LGA. On 17 August 2010 the proposer advised that he wanted the Commission to proceed with the proposal.

10. The Commission held a hearing for those submitters wishing to speak to it at the Bowentown Boating and Fishing Club on 1 and 2 September 2010. The submitters who appeared at the hearing were: Brian Heppenstall (representative of electors); the WBoPDC (represented by Deputy Mayor Sam Dunlop, Paul Cooney legal counsel, Glenn Snelgrove Chief Executive, Steve Hill, Gary Allis, Miriam Taris and Peter Hennessey); the HDC (represented by Deputy Mayor Mary Carmine, Jonathan Salter legal counsel, Langley Cavers Chief Executive); the Waihi Beach Community Board (represented by Ross Goudie); the SmartGrowth Implementation Committee (represented by Ken Tremaine); Peter Hassell; the Bay of Plenty Regional Council (represented by Chair John Cronin, Bill Bayfield Chief Executive and Eddie Grogan); Pio Shores Sports Association (represented by Colleen Low); Te Rūnanga a iwi o Ngāti Tamāterā (represented by Rawinia Ruth Brownlee and Tewi Nicholls Kaumatua); Grant Rickard; Gloria Sharp; Jim Cowern; Judi Longdill; Carlton Bidois; Te Rūnanga o Ngāi te Rangi Iwi Trust (represented by Penetaka Dickson Chief Executive, Demetrius Samuels Resource Management Act Manager, and Reon Tuanau Otāwhiwhi marae); Kathy Mason; M.J. Wilson; Murray Craig and Derek Meredith.
11. A brief summary of points raised in written submissions and at the hearing on 1 and 2 September, for and against the proposal, is attached as an *Appendix*.
12. At the hearing the Commission requested some additional information from the WBoPDC and the HDC. This information was provided to the Commission on 23 September and 18 October 2010.
13. At its 19 October 2010 meeting the Commission decided that further analysis of the financial implications of the proposal was required in order for it to be satisfied that it had sufficient information on which to base a decision. Brian Smith, Principal, Brian Smith Advisory Services, was contracted to undertake this analysis. The findings of the analysis were reported to the Commission on 16 November 2010.
14. Following the submissions and hearings process, 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:
 - (a) 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
 - (b) not to proceed with the proposal.

Statutory Criteria

15. 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.*

16. Clause 4 provides:

In determining boundaries under any reorganisation proposal or scheme, ... the Commission must ensure that, –

- (a) *if practicable, the boundaries of regions conform with catchment boundaries; and*
- (b) *if practicable, the boundaries of districts conform with the boundaries of regions; and*
- (c) *the boundaries of regions and the boundaries of districts conform with the boundaries of statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes.*

Promotion of good local government

17. The Commission has previously agreed that the main statutory 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.¹ 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.
18. In order to assess whether a reorganisation proposal will better promote good local government in a particular area, the Commission has identified the following questions that need to be addressed:
- (a) would the proposed districts/regions *better recognise* distinct communities of interest?
 - (b) would the proposal provide for *more effective* representation of communities of interest?
 - (c) would the proposal provide for *more effective* governance of the districts/regions concerned including meeting decision-making requirements?
 - (d) would the proposal facilitate *more effective* planning for meeting the immediate and long-term needs of the districts/regions concerned?
 - (e) would the proposal facilitate *more efficient and effective* service delivery in the districts/regions concerned?
 - (f) would the proposal provide for *enhanced* financial capacity in the districts/regions concerned?
 - (g) would the proposal provide for *enhanced* local government management and organisational capacity in the districts/regions concerned?
19. These questions are addressed in detail below.

Description of districts

20. Waihi Beach Ward is situated to the north of Tauranga Harbour/Te Awanui at the north-western tip of Western Bay of Plenty District and Bay of Plenty Region. The ward comprises the settlements of Waihi Beach township, Island View, Pios Shores, Bowentown and Athenree and includes a large rural area and recreational and coastal reserves.

¹ 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.

21. Western Bay of Plenty District covers an area of 2,120 square kilometres of coastal, rural and urban land. It comprises (from north to south) Waihi Beach, Katikati, Omokoroa, Te Puna, Te Puke and Maketu and includes the Tauranga Harbour/Te Awanui and large rural areas.
22. Hauraki District covers an area of 1,144 square kilometres of coastal, rural and urban land. It includes the areas of (from south-east to north-west) Waihi township, Paeroa, and the Hauraki Plains. Its northern boundary is the Firth of Thames including, from November 2010, the Miranda/Kaiaua area.

Māori communities

23. Waihi Beach Ward contains areas of significance to both Hauraki Māori (in particular, Te Rūnanga a iwi o Ngāti Tamātera) and Tauranga Moana Māori (in particular Te Rūnanga a iwi o Ngāi te Rangi).²
24. Te Rūnanga a iwi o Ngāti Tamātērā (Hauraki Māori) submitted that their rohe includes areas that are currently within both Hauraki District and Western Bay of Plenty District and that the proposal would create better alignment of local council boundaries with their rohe boundaries.
25. Te Rūnanga o Ngāi te Rangi iwi Trust submitted that the rohe of Tauranga Moana Iwi is broadly centred on Tauranga Harbour/Te Awanui and includes the areas within Waihi Beach Ward that are adjacent to Te Awanui (i.e. Athenree, Island View-Pios Shores and Bowentown). Therefore, the proposal would split Tauranga Moana iwi rohe between councils and create a local government boundary between Te Whanau o Tauwhao hapū at Otāwhiwhi Marae (located in the Bowentown area) and the remainder of Ngāi te Rangi (Tauranga Moana) Iwi.

Historical local government boundaries

26. Prior to 1989, the areas of Athenree, Bowentown, Pios Shores-Island View were part of Tauranga County, while Waihi Beach township was part of Waihi Borough (between 1926 and 1953) and (from 1953 to 1989) Ohinemuri County.
27. In 1989 the Commission determined that the Athenree, Bowentown and Island View-Pios Shores, *and* Waihi Beach township areas would be included in Bay of Plenty Region and Western Bay of Plenty District.
28. In 1994 the Commission dismissed an appeal against a WBoPDC decision not to proceed with a reorganisation scheme for the transfer of Waihi Beach Ward from Western Bay of Plenty District to Hauraki District.

² It is noted that the Commission's decision-making responsibilities impact directly only on local government boundaries. The impact of the proposal on council-Māori relationships is discussed under 'Effective local governance'.

Recognition of distinct communities of interest

29. The Commission has identified the following three dimensions in recognising communities of interest:
- the extent to which residents have a sense of identity with and belonging to the community based on the physical, social and cultural features and characteristics of the area;
 - the ability to meet the community's needs for services (both council and non-council services); and
 - the ability to represent the interests and reconcile the conflicts of the community.

Waihi Beach Ward contains a single community of interest

30. At the hearing the two councils and the proposer agreed that Waihi Beach Ward is best recognised as a single community of interest that should not be split between councils. This was based on the development of an interconnected, ward-based infrastructure network and recognition of a ward-based community identity.

Community distinctiveness

31. Key characteristics of Waihi Beach Ward are described in the publication 'Waihi Beach – Defining our Future'. It is a coastal location with many recreational reserves and facilities. It is a popular summer holiday destination when its population can increase from approximately 3,000 people to an estimated 18,000 people.
32. At the 2006 census Waihi Beach Ward had a usually resident population of 2,946 (representing a 3 per cent decline since the 2001 census). However, SmartGrowth development trends reports for 2004 and 2009 show that the number of residential dwellings within Waihi Beach Ward has increased from 2,018 dwellings (as at June 2004) to 2,540 dwellings (June 2009). The ward has land capacity for future urban development³, as provided for in the Bay of Plenty regional policy statement.⁴ There is a high rate of unoccupied dwellings within Waihi Beach Ward.⁵

³ It was submitted that Waihi Beach Ward contains about 33% of the remaining capacity for growth within Western Bay of Plenty District.

⁴ The Bay of Plenty regional policy statement enables urban development within urban limits concentrated on existing settlement areas, including Waihi Beach township, Bowentown, Athenree, Katikati and Omokoroa.

⁵ Based on the 2006 census, of the three area units comprising Waihi Beach Ward, the Waihi Beach area unit contained 825 occupied and 711 unoccupied dwellings (46% unoccupied dwellings), the Island View-Pios Shores area unit contained 246 occupied dwellings and 402 unoccupied dwellings (62% unoccupied dwellings), and the Athenree area unit contained 252 occupied dwellings and 84 unoccupied dwellings (25% unoccupied dwellings). By way of contrast, the neighbouring Katikati area unit contained 1470 occupied and 117 unoccupied dwellings (7% unoccupied dwellings).

33. Taken together, these characteristics can be seen to distinguish Waihi Beach Ward from the neighbouring communities of Waihi township (Hauraki District) and Katikati (Western Bay of Plenty District).

Community linkages

34. We heard evidence at the hearing about the strong historical, functional⁶ and political community of interest linkages between Waihi Beach Ward and Waihi township (and, to a lesser extent, to part of the remainder of the Hauraki District). About 60 per cent of the usually resident population of the ward is located in the Waihi Beach township area (compared to approximately 40 per cent in the Island View-Pios Shores-Bowentown and Athenree areas). Continued community linkages between, in particular, Waihi township and Waihi Beach township can be assumed given their close proximity⁷, work, social and lifestyle opportunities, and shared jurisdictions for some services.
35. We also heard evidence about the strong historical, functional and political community of interest linkages between Waihi Beach Ward and the remaining Western Bays area including Katikati and Tauranga City. Community linkages between these areas can be seen to be based on close proximity⁸, work, social and lifestyle opportunities, and shared jurisdictions for some services. We believe the strength of these linkages is reflected in the approximately 90 per cent of submissions opposed to the proposal.

Wider community linkages

36. Local communities are typically part of a hierarchy of communities of interest which at the higher levels may be seen to be regional, national and even global in nature. By their nature local communities of interest can be complementary and overlapping without totally merging into each other to lose their unique identity.
37. Waihi Beach Ward can be seen to be part of wider communities of interest, in that:

⁶ For example:

- employment (for Waihi Beach Ward the 2006 census records a total of 954 people in employment. Of these, 53% (504) worked in Waihi Beach Ward, 10% (99) within another part of Western Bay of Plenty District, and 35% (333) in Hauraki District)
- education (an estimated 80% of secondary school age pupils residing in Waihi Beach Ward, attend Waihi College)

⁷ Distance to central Waihi from:

- Wilson Road, Waihi Beach is 11.9 kilometres
- Bowentown Domain is 16.5 kilometres
- Kotunui Road, Athenree is 17.1 kilometres.

⁸ Distance to central Katikati from:

- Wilson Road, Waihi Beach is 20.5 kilometres
- Bowentown Domain is 20.6 kilometres
- Kotunui Road, Athenree is 16.2 kilometres.

- (a) it is part of a community with a shared interest in Tauranga Harbour/Te Awanui. Additionally, this 'western bays subregion' has, and is likely to continue to, experience shared high rates of population growth (in contrast to low rates of population growth for Hauraki District)⁹; and
 - (b) it is a holiday destination, and has a high rate of holiday homes, which can be seen to extend its community of interest linkages to the wider Auckland, Waikato and Bay of Plenty Regions.
38. Our view is that, given communities of interest are shared with both Hauraki and Western Bay of Plenty Districts, the proposal does not reflect distinct communities of interest *better* than existing arrangements.

Effective representation of communities of interest

39. A principle of the Local Electoral Act 2001 is the achievement of fair and effective representation for individuals and communities. Fair representation is defined in terms of approximate equality in representation of electors i.e. the ratio of population per member is within +/-10% of the average for the district as a whole. Effective representation is not defined in the Act but the Commission has identified the following factors to be considered:
- (a) avoiding arrangements that may create barriers to participation, such as at elections, by not recognising residents' familiarity and identity with an area;
 - (b) not splitting recognised communities of interest;
 - (c) not grouping together two or more communities of interest that share few commonalities of interest; and
 - (d) accessibility, size and configuration of the area concerned.
40. Waihi Beach Ward currently comprises approximately seven per cent of the usually resident population of Western Bay of Plenty District. This proportion is projected to slowly decrease over time. If the proposal were to proceed, the usually resident population of Waihi Beach Ward area would comprise approximately 17 per cent of the usually resident population of Hauraki District. This proportion is projected to increase slowly over time.
41. We acknowledge that, based on current population figures and based on current representation arrangements, the proposal can presently be seen to result in proportionally better councillor representation for the Waihi Beach Ward area. Councils are, however, required to review representation arrangements every six years and the WBoPDC and the

⁹ Statistics New Zealand projects that the population of Western Bay of Plenty District is set to grow by 48.3% in the next 25 years. In contrast, Statistics New Zealand projects that the population of Hauraki District will grow by only 6.25% over the next 25 years. Waihi Beach Ward is projected to grow by 44.7%, while neighbouring Waihi township is projected to decline by 6.7%.

HDC will need to address achievement of fair and effective arrangements again prior to the 2013 and 2016 local elections respectively.

42. Effective representation of communities can also be addressed at sub-district level. The HDC operates ward committees for each of its three existing wards. These comprise the councillors elected from the ward and the mayor. Proponents argued that application of this ward committee structure, given potential increased councillor representation, could enable a more efficient and effective relationship between communities of Waihi Beach Ward and the parent council (HDC).
43. Based on community of interest and the other information and views presented to us, we believe that the existing Waihi Beach Community Board offers greater potential to provide for the effective representation, advocacy and governance of the Waihi Beach Ward community. This is because of:
 - The clear focus and statutory role of the community board – to represent and act as an advocate for the distinct interests of the Waihi Beach community.
 - The strength of the board’s membership and the fact that its members are directly elected from the community to serve in the interests of the community.
 - The independence of the community board and its potential to facilitate governance relationships that extend both to the north-west and to the south of Waihi Beach Ward.
 - The potential for the community board to endure. (Community boards are established under the LGA and Local Electoral Act 2001 and so are a more certain element of community governance than ward committees, which can be established and disestablished by decision of the council. In addition, the retention of the Waihi Beach Community Board is not dependent on council ward and membership arrangements).
44. Overall, we do not believe that the proposal, including a possible Waihi Beach ward committee, will necessarily provide for *more effective* future representation of the Waihi Beach Ward community.
45. We believe that the real or perceived quality of the relationship between a community board and its parent council is a key factor in contributing to community board effectiveness. The recent 2010 local elections established a new council and a new Waihi Beach Community Board. There is now an opportunity for the new council to engage with the Waihi Beach Community Board with a view to improving mutual understanding and determining appropriate tasks and responsibilities for the community board. We believe this will lead to improved relationships between the council (including service centre staff) and the community.

Effective local governance

46. The role of local authorities under the LGA includes giving effect to the purpose of local government. This purpose is to:
- (a) enable democratic local decision-making and action by, and on behalf of, communities; and
 - (b) promote the social, economic, environmental and cultural well-being of communities, in the present and for the future.
47. The Commission, in considering a reorganisation proposal, is required to satisfy itself that each local authority has a district or region that is appropriate for the efficient and effective performance of its role and that each local authority will be able to meet the requirements of section 76 of the LGA. Section 76 sets out requirements relating to decision-making, consideration of community views, contributions to decision-making by Māori, and consultation.

Community-council relationships

48. We heard strong and mixed opinions about the governance relationship between the Waihi Beach Ward community and the WBoPDC. These relationships have been affected by a recent controversial issue which, for some, has had a polarising effect. This has impacted on effective ongoing communication. Some of the examples presented to us of perceived poor WBoPDC governance practice, we see as relationship issues that are better resolved through means other than changing local government boundaries (and as described in paragraph 45 above).
49. We note that the WBoPDC's 2009 resident satisfaction survey indicated that 23 per cent of Waihi Beach Ward residents were dissatisfied/very dissatisfied, and 50 per cent were satisfied/very satisfied, with their opportunities to participate in council decision-making. We were not convinced that the proposal would necessarily create a lasting improvement in community-council relationships. Such an improvement can, however, still be achieved with effective engagement of the parties.

Māori relationships

50. The proposal would split the Ngāi te Rangi (Tauranga Moana) iwi community of interest (centred on Te Awanui) between councils. The relationship between Tauranga Moana iwi and the WBoPDC is widely viewed as positive. It has taken time and resources to develop and is entrenched through established fora, protocols and management plans. The iwi of Tauranga Moana are active partners in the SmartGrowth strategy and its implementation. We believe these well-established governance relationships better enable Tauranga Moana iwi to effectively exercise their mana whenua and kaitiakitanga responsibilities. Ownership by Te Whanau o Tauwhao hapū of Otāwhiwhi Marae (located in the Bowentown area) is also taken into account.

51. For Te Rūnanga a iwi o Ngāti Tamātērā, the existing council boundaries require duplication of relationships with two local and two regional councils. The proposal does not fully address this. A seat is reserved for Te Rūnanga a iwi o Ngāti Tamātērā on the WBoPDC Māori forum. However, the distance between Paeroa and Tauranga (where the majority of meetings are held) presents a barrier. Taking into account the impact on both Hauraki and Tauranga Moana iwi, we believe the proposal will have an overall negative impact on Māori-council relationships.

Council collaboration

52. We were presented with strong evidence of the mature collaborative relationship¹⁰ between the Bay of Plenty Regional Council, Tauranga City Council, the WBoPDC and tangata whenua. This collaboration has developed in response to shared pressures that overlap jurisdictional boundaries and responsibilities, including providing for, and managing the impacts of, population growth and integrated harbour management. We believe that this collaboration enhances efficiency and effectiveness in the exercise of local government functions and responsibilities.
53. We agree with these agencies that the proposal is unlikely to result in the same level of collaboration with the HDC. This is based on the different characteristics of Hauraki District and therefore the different focus and priorities of the HDC. We believe the proposal would result in increased, ongoing transactional costs between agencies.
54. Based on the factors above relating to community-council, Māori-council, and inter-council relationships, we believe that the proposal would have an overall detrimental impact on local governance arrangements.

Effective planning

55. The Commission, in addressing the proposal, is required to consider the area of impact of the responsibilities, duties and powers of the local authorities concerned and the likely effects on local authorities of the exclusion of any area from their district or region. In doing so, it also needs to consider the impact of the proposal on the concerns of tangata whenua.
56. Local authority planning responsibilities are provided for under the LGA, the Resource Management Act 1991 and the Land Transport Management Act 2003. The existing resources, both financial and non-financial, of the local authorities affected by the proposal need to be considered in relation to their ability to provide effective planning for their districts/regions given their differing nature and characteristics. Levels of resources and local authority capacity are addressed later.

¹⁰ This was evidenced by, for example, the SmartGrowth strategy, provision of shared services, and the management of transport and infrastructure.

57. Clause 4(b) of Schedule 3 of the LGA requires the Commission to ensure that, if practicable, the boundaries of districts conform with the boundaries of regions. Clauses 1 and 2 of Schedule 2 of the LGA provide that if the boundaries of a district are altered and all or part of those boundaries are also regional boundaries, those regional boundaries are also altered unless the Order in Council giving effect to the relevant reorganisation scheme provides otherwise.
58. The vast majority of submitters (including the Bay of Plenty Regional Council, Environment Waikato, and the Representative of electors) believed that the inclusion of the Waihi Beach Ward area within Bay of Plenty Region is appropriate.
59. Waihi Beach Ward borders Tauranga Harbour/Te Awanui. It has, and is likely to continue to experience urban development pressures. These are characteristics shared with the remainder of the 'western bays subregion' (i.e. the area surrounding Tauranga Harbour). Effective planning for Waihi Beach Ward and the western bays subregion will need a strong focus on these inter-related characteristics. Although the Bay of Plenty Regional Council has Resource Management Act planning jurisdiction over the (wet) harbour itself, it was submitted that controlling the harbour interface is equally as important in order to protect the harbour waters and to maintain the natural character of the coastal environment while accommodating high population growth. Achieving integrated harbour management crosses a range of agency responsibilities and jurisdictional boundaries and is therefore aided by inter-agency collaboration. This is happening under the umbrella of the SmartGrowth strategy and implementation plan.¹¹ We believe the proposal will complicate this.
60. The proposal would require additional, ongoing financial and non-financial planning-related costs for Ngāi te Rangi Iwi Trust, the Bay of Plenty Regional Council, Environment Waikato and the HDC.
61. We note that the WBoPDC has invested in local community planning for Waihi Beach Ward and that this has included constructive community input. This is not to say that the HDC could not also assist local community planning for Waihi Beach Ward, as it has done with other communities within its district.
62. On balance, we do not believe that the proposal will facilitate *more effective* planning for meeting the immediate and long-term needs of communities within the affected districts and regions.

¹¹ SmartGrowth is a collaborative, long-term (20-50 year) planning project aimed at managing high population growth in an integrated, cost-effective, and sustainable way. The SmartGrowth strategy framework is anchored in the regional policy statement. The Tauranga City Council and the WBoPDC are required to give effect to the regional policy statement in their district plans. The strategy has been a significant project since 2001.

Efficient and effective service delivery

63. 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.
64. The wastewater and stormwater networks in Waihi Beach Ward are physically separate from systems in the remainder of Western Bay of Plenty District and therefore can be operated and managed independently. The revenue and expenditure for these utilities is largely self-contained to Waihi Beach Ward and its ratepayers.¹² Based on advice received from the HDC, the impact of the proposal in relation to these utilities is likely to be cost neutral.
65. Waihi Beach water supply is part of the integrated western supply zone. This supply zone is managed in an integrated manner supplying the western area including Waihi Beach, Katikati, Tanners Point, Kauri Point, and the rural area. The WBoPDC would need to retain the Athenree bores and reservoirs for the supply zone; however they are also required to service Waihi Beach. If the proposal were to proceed, we believe there would be appropriate methods for this water supply scheme to continue to service the ward on a cost neutral basis to the WBoPDC.
66. The roading infrastructure in Waihi Beach Ward is maintained through a Western Bay of Plenty District-wide integrated 10-year lump sum performance based contract which includes asset management, planning, maintenance, capital works and customer service. The contract expires in 2012.
67. Because of the nature of the performance based contract, the proportion of roading operating expenditure for Waihi Beach Ward cannot be accurately calculated. There are additional significant uncertainties about the impact of the proposal on roading-related revenue and expenditure. However, the independent advice provided to us suggests that yearly rates for roading in Waihi Beach Ward *could* be \$300,000 - \$400,000 lower if the proposal were to be implemented. This would be an average reduction of \$100 - \$150 per rateable property in Waihi Beach Ward. This *possible* reduction is largely because the HDC roading costs are met by way of a general rate based on capital value, whereas WBoPDC roading rates are predominantly sourced from general rates based on land value.

Financial capacity

68. The Commission is required to satisfy itself that each local authority affected by a reorganisation proposal will have the resources necessary to enable it to carry out its responsibilities, duties and powers. We were

¹²This is achieved by way of targeted rates to meet operating and loan servicing costs associated with these utilities.

not provided with evidence that this criteria would not be met, in respect of either the WBoPDC or HDC, under the proposal.

69. We believe the impact of the proposal on ratepayers, should the proposal proceed, can be summarised as follows:
- There would likely be a negative financial impact for the balance of Western Bay of Plenty District ratepayers resulting from spreading council overheads over fewer properties. The council quantified this impact at \$54 per rateable property on the basis that overheads would not be reduced if the proposal were to proceed. If, however, a 5 per cent reduction in overheads could be identified, the impact would be reduced to \$45 per property.
 - In the short term, there *could* be a positive financial impact for Waihi Beach Ward ratepayers arising mainly from roading and staffing cost reductions although the quantum of the reductions is not clear from the data able to be provided by the councils and may not be as significant as claimed given the high degree of uncertainty associated with, for example, roading (see paragraph 67) and loan swap/exit costs.¹³
 - There would be a positive financial impact on existing Hauraki District ratepayers arising from the spreading of costs over a wider ratepayer base though again the quantum is not clear and would be reduced by costs of servicing significantly increased council debt.
70. We are not confident that the proposal would deliver a significant demonstrable benefit for Waihi Beach Ward ratepayers. In our opinion, the likely positive financial impact of the proposal on Hauraki District ratepayers would be more than counter-balanced by the likely negative financial impact on Western Bay of Plenty District ratepayers including transitional costs and associated disruption. In summary, we are not satisfied that the proposal would result in *enhanced* financial capacity for the benefit of ratepayers in the affected districts.

Management and organisational capacity

71. The requirement for the local authorities, affected by a reorganisation proposal, to have the necessary resources to carry out their responsibilities, duties and powers, covers both financial and non-financial resources. Existing local authority management and organisational capacity has to a large extent, either directly or indirectly, been addressed above under the headings of 'effective planning', 'efficient and effective service delivery' and 'financial capacity'.

¹³ Waihi Beach Ward accounts for 25% of the WBoPDC's total external debt, being \$30.4 million of \$122.5 million. It is expected that this \$30.4 million debt would be transferred under the proposal.

72. We acknowledge that the WBoPDC has managerial and organisational experience in relation to, for example, management of Tauranga Harbour/Te Awanui, provision for and management of population growth, and SmartGrowth collaboration. However, we concluded that both councils could have the management and organisation capacity to administer Waihi Beach Ward.

Conclusion in relation to mandatory criteria under LGA

73. As noted in paragraph 15, the Commission must be satisfied, under clause 3(1) of Schedule 3 of the LGA, that a reorganisation proposal will promote good local government of the districts/regions concerned and in this context we take 'promote' to mean *enhance* or *improve*. We have identified a series of questions to assist us to address this requirement and these questions and our responses to them are set out in this report.
74. In summary we have found the proposal:
- (a) does not clearly reflect communities of interest better than existing arrangements;
 - (b) would not necessarily provide for more effective future representation of Waihi Beach residents and ratepayers;
 - (c) would not improve local governance arrangements;
 - (d) would not facilitate more effective planning for meeting the immediate and long-term needs of the districts and regions concerned;
 - (e) would not result in demonstrably better service delivery arrangements for Waihi Beach Ward residents;
 - (f) would have a detrimental impact on the balance of Western Bay of Plenty District ratepayers and while likely to have a positive impact on Waihi Beach Ward ratepayers and to a lesser extent Hauraki District ratepayers (given the impact of increased debt and servicing costs), these benefits are not sufficient to outweigh the negative impacts of the proposal overall and the transitional disruptions that would occur; and
 - (g) would not have a demonstrably enhanced impact in relation to managerial and organisational capacities for carrying out statutory and other responsibilities, duties and powers.

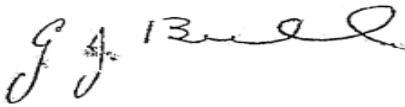
Commission's determination

75. Having assessed the proposal, all submissions made on it, and also the further information we received, against the criteria contained in clauses 3 and 4 of Schedule 3 of the LGA, we have decided under clause 39 of Schedule 3 not to proceed with the proposal. We find that a draft reorganisation scheme based on the proposal, or on modifications to the proposal, would not promote good local government of Western Bay of Plenty District, Hauraki District, Bay of Plenty Region or Waikato Region.

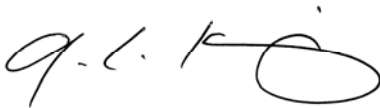
THE LOCAL GOVERNMENT COMMISSION



Sue Piper (Chair)



Gwen Bull (Commissioner)



Grant Kirby (Commissioner)

22 December 2010

Appendix One

Summary of written submissions and hearing

In summary, the points raised in written submissions and at the hearing on 1 and 2 September 2010 in support of the proposal were:

- a. There are strong historical, functional and administrative/service linkages between communities within Waihi Beach Ward (i.e. Waihi Beach township, Athenree, Pio Shores-Island View) and Waihi township and Hauraki District.
- b. Representation arrangements for the Western Bay of Plenty District Council (WBoPDC) do not provide effective representation of Waihi Beach Ward communities. Representation of Waihi Beach communities on the WBoPDC will be weakened over time (because of usually resident population trends and the fair representation requirements of the Local Electoral Act 2001).
- c. The Waihi Beach Community Board has been limited in its ability to make decisions and effectively advocate community concerns. The Hauraki District Council (HDC) ward committee structure would provide for more effective and efficient representation of the Waihi Beach community.
- d. A history of perceived poor communication and engagement between the WBoPDC and Waihi Beach residents has contributed to perceived poor outcomes for the community. This was seen by submitters as symptomatic of an organisational culture and governance approach that is not as suited to Waihi Beach community interests as the HDC governance approach is perceived to be.
- e. SmartGrowth has little relevance to Waihi Beach Ward and vice versa. Key issue for Waihi Beach is more effective use of existing infrastructure. HDC faces the same issues as Waihi Beach.
- f. The WBoPDC approach to revenue and financing is placing an unfair burden on Waihi Beach Ward ratepayers and there is a perceived lack of accountability to the community. The proposal would likely reduce the rating impact on Waihi Beach Ward, and an enlarged Hauraki District. Population growth may offset the negative rating impact on Western Bay of Plenty District.
- g. The design of capital projects and the efficiency and cost-effectiveness of service delivery to Waihi Beach Ward would be improved by the proposal.
- h. The HDC is experienced in coastal management and 'holiday town' issues and is capable of administering Waihi Beach Ward. From a financial and organisational capacity perspective, the proposal would benefit Hauraki District to a degree that outweighs negative impact on Western Bay of Plenty District.
- i. A draft reorganisation scheme would enable a more informed community debate.

In summary, the points raised in written submissions and at the hearing on 1 and 2 September 2010 in opposition to the proposal were:

- a. In 1989 and 1994 the Commission determined that Waihi Beach Ward would be included in the Bay of Plenty Region and Western Bay of Plenty District. Since these decisions, the WBoPDC has made considerable investments in planning and infrastructure for Waihi Beach Ward.
- b. Urban development pressures (high growth) and a coastal and harbour environment are key shared characteristics that, from a geo-physical and local government functions perspective, naturally partner Waihi Beach Ward with the remainder of Western Bay of Plenty District. In addition, there are strong historical, functional and service linkages between communities within Waihi Beach Ward, Katikati and the western area of Western Bay of Plenty District. The proposal would split the community of Ngāi te Rangi (Tauranga Moana) iwi.
- c. Representation of Waihi Beach Ward on the WBoPDC is consistent with the requirements of the Local Electoral Act 2001. The Waihi Beach Community Board provides a stronger vehicle for appropriate community representation than an HDC ward committee would.
- d. The WBoPDC is committed to good community engagement and community planning processes. It is unclear how the proposal would improve council-community relationships at the organisational level.
- e. The proposal would undermine existing, positive inter-council and tangata whenua relationships, including SmartGrowth. It would require duplication of relationships at additional cost. Achieving the integrated management of Tauranga Harbour/Te Awanui, and coordinating high population growth planning, would become more complicated and may be compromised.
- f. The proposal would impact negatively on the financial and organisational capacity of the WBoPDC by:
 - i. reducing the rating base to an extent not offset by a proportional drop in council expenditure
 - ii. removing 33% of the district's identified future urban growth capacity
 - iii. creating additional, unanticipated costs, including those costs associated with debt restructuring, renegotiation of district-wide contracts, and strategy and plan changes.
- g. The proposal would undermine existing economy of scale efficiencies for provision of roads, utilities maintenance and other services and would require cross-boundary arrangements for water supply to Waihi Beach Ward.