



Local Government
Commission

Mana Kāwanatanga ā Rohe

Possible boundary alterations between Kawerau District and Whakatane District:

Amended Investigation Process

21 August 2023

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Purpose of document

1. In accordance with Schedule 3 of the Local Government Act 2002 (the LGA), this document sets out the process the Local Government Commission (the Commission) intends to follow to investigate the local government reorganisation initiative (the initiative) received from Kawerau District Council for boundary alterations between Kawerau District and Whakatane District.

Background

2. In April 2022, the Commission received a reorganisation initiative from Kawerau District Council (the Council) seeking an alteration to the boundary between Kawerau District and Whakatane District. The initiative identifies four blocks of land over three areas currently in Whakatane District, totalling approximately 434 hectares. It seeks to include these areas within the Kawerau District.
3. On 15 June 2022 the Commission, having regard to the matters set out Clause 6 of Schedule 3 of the LGA, decided to investigate the initiative. The Commission subsequently notified the affected local authorities, being Kawerau District Council and Whakatane District Council, of its decision to investigate.
4. The LGA requires the Commission to adopt an investigation process document describing the process for its investigation (LGA, Sched. 3, cl. 7). Before adopting the process document, the Commission was required to undertake consultation:
 - (a) with affected local authorities, on the proposed process (LGA, Sched. 3, cl. 7(4)(a)), and
 - (b) with affected iwi and hapū, about whether, and how, the proposed reorganisation investigation, or any reorganisation plan that may result from the investigation, may affect their relationship with their ancestral land, water, sites, wāhi tapu, valued flora and fauna, and other taonga, or affect their relationships with local authorities (LGA, Sched. 3, cl. 7(4)(b)).
5. Accordingly, the Commission invited affected local authorities and affected iwi and hapū to provide feedback on the draft investigation process through August and September 2022.

Matters to be investigated

6. The investigation process is concerned with the desirability of alterations to the boundary between Kawerau District and Whakatane District, in the three areas identified in the initiative:
 - Area 1: Putauaki Industrial Park
 - Area 2: Tohia o Te Rangi Marae
 - Area 3: Otarahanga Farm
7. The overarching consideration for the proposed boundary changes is whether the proposed boundaries provide a better basis than the current boundaries for enabling and facilitating improvements to local governance, as required by the LGA (Section 24AA).

8. In the case of this initiative, the primary considerations are whether the current boundaries will best facilitate planned economic development and improve the Council's ability to make decisions that promote the wellbeing of the wider Kawerau community of interest, iwi and hapū, supporting the purpose of local government set out in the LGA (section 10).
9. As a result, the investigation is linked to anticipated industrial and papakainga development and the provision of related infrastructure by the Council, and the ability of the Council to ensure its district, long term, and asset management planning reflects the services it currently provides. It is also linked to the interests of affected iwi and hapū.
10. The investigation must also consider connections with, and potential implications for the Western-Central Water Services Entity and the application of the Water Services Entities Act 2022. The relevant matters for this investigation are the service area of the entity identified in Schedule 2 of the Act, and the allocation of shares to the entity's territorial authority owners based on population as set out in Section 16 of the Act.

Affected areas and affected local authorities

Affected areas

11. An affected area is one that would be included in the district or region of a new or different local authority if the reorganisation was to proceed (LGA, Sched. 3, cl. 2).
12. In this case, the affected areas are:
 - Area 1: Land identified for expansion of the Putauaki Industrial Park and associated infrastructure.
 - Area 2: Land housing Tohia o Te Rangi Marae at 137 Spencer Avenue, currently in Whakatane District but accessed and serviced by Kawerau District.
 - Area 3: The part of Otarahanga Farm currently in the Whakatane District. The farm is accessed from Kawerau District and is currently dissected by the boundary between Kawerau and Whakatane Districts.

Affected local authorities

13. An affected local authority is one whose district or region contains an affected area (LGA, s5.). In this case, the affected areas are proposed to move between two territorial authorities, Whakatane District Council and Kawerau District Council.
14. As all affected areas remain within the Bay of Plenty Regional Council, it is not considered an affected local authority.
15. In this reorganisation initiative, the affected local authorities are:
 - (a) Kawerau District Council
 - (b) Whakatane District Council

Affected iwi and hapū

16. There are two strands to the Commission's engagement with affected iwi and hapū. The first strand of the Commission's investigation will seek to understand the effect of the proposed boundary alterations on the relationship of all affected iwi and hapū with their ancestral land, water, sites, wāhi tapu, valued flora and fauna, and other taonga, or with local authorities.
17. The second strand of the Commission's investigation will engage specifically with iwi and hapū members who are landowners in the affected areas, to understand their level of support for the proposed boundary alteration and what it would mean for them.
18. In many instances, the two strands will overlap. This section identifies affected iwi and hapū for the purposes of the first strand.
19. The LGA defines an affected iwi or hapū as one with interests within the affected area, including any entity or organisation identified by Te Puni Kōkiri as representing those interests (Sched. 3, clause 2). Te Puni Kōkiri^{1,2} identifies three iwi, Ngāti Awa, Ngāti Tūwharetoa (Bay of Plenty), and Ngāti Rangitahi as having interests in the affected areas.

Ngāti Awa

20. Ngāti Awa is represented by Te Runanga o Ngāti Awa (TRONA), a post-settlement governance entity (PSGE). TRONA represents all 22 Ngāti Awa hapū identified by Te Puni Kōkiri³. TRONA has identified the following Rangitaiki Plains hapū as affected hapū:

- Ngā Maihi
- Ngāi Tamaoki
- Ngāi Tamawera
- Ngāti Hāmua
- Te Kahupāke
- Te Pahipoto
- Te Tāwera
- Ngai Tūariki
- Warahoe

Ngāti Tūwharetoa (Bay of Plenty)

21. Te Puni Kōkiri identifies nine Ngāti Tūwharetoa (Bay of Plenty) hapū, with various representation:

- Ngāi Tamarangi
- Ngāti Iramoko
- Ngāti Irawharo
- Ngāti Manuwhare
- Ngāti Peehi
- Ngāti Poutomuri
- Ngāti Umutahi
- Te Aotahi
- Te Tāwera

¹ <https://www.tkm.govt.nz/localauthority/kawerau-district-council/>

² <https://www.tkm.govt.nz/iwi/ngati-rangitahi/>

³ <https://www.tkm.govt.nz/iwi/ngati-awa/#>

22. Ngāti Tūwharetoa (Bay of Plenty) Settlement Trust, a PSGE, represents those iwi members who are beneficiaries of the Wai 62 Claim settled with the Crown in 2005. The PSGE and other collective interests of the beneficiaries are managed by Tūwharetoa mai Kawerau ki te Tai.
23. Ngāti Tūwharetoa iwi and hapū members who are not beneficiaries of the Settlement Trust are represented and guided by the Paetapu of Hahuru, Tohia o te Rangī, and Rautahi Marae.

Ngāti Rangitīhi

24. Ngāti Rangitīhi is represented by Te Mana o Ngāti Rangitīhi Trust, a PSGE. The PSGE represents all eight hapū identified by Te Puni Kōkiri⁴:
- Ngāti Hinehua
 - Ngāti Hinerangi
 - Ngāti Ihu
 - Ngāti Mahi
 - Ngāti Rangitīhi
 - Ngāti Te Whareiti
 - Ngāti Tionga
 - Ngāti Tutangata

Investigation Procedure and timetable

Estimated date	Investigation step
Oct 2022	Commission publicly notifies adopted investigation process
Nov 2022- Mar 2023	Commission invites those who have already indicated support for the reorganisation initiative to provide any further comments on the proposed boundary changes: <ul style="list-style-type: none"> • Affected local authorities • Landowners/land administrators affected by the proposed boundary change
	Commission invites feedback on the reorganisation initiative from: <ul style="list-style-type: none"> • Affected iwi and hapū • Area 1 Neighbouring landowners/land administrators (not part of the initiative) • Bay of Plenty Regional Council • Kawerau District and Whakatane District communities
	Commission site visits
	Commission meets with iwi and hapū representatives if requested, to help inform written feedback
Mar-17 Nov 2023	Council to undertake further actions as recommended by the Commission
	Commission invites the Western-Central Water Services Entity and associated parties to comment on the reorganisation initiative
Dec 2023/ Jan 2024	Public hearing if needed

⁴ <https://www.tkm.govt.nz/iwi/ngati-rangitih/#>

Estimated date	Investigation step
Feb/Mar 2024 (or earlier if practicable)	Commission publicly notifies completion of investigation.

25. Throughout the investigation process and any resulting reorganisation, the Commission will provide updates and copies of key documents on its website, as well as the required public notifications set out in Schedule 3 of the LGA.
26. Engagements may be either in writing, in person, or virtual.

Steps following completion of investigation

27. As soon as possible following the completion of the investigation, the Commission will decide whether or not to proceed with a reorganisation, give public notice of the investigation completion, and notify affected local authorities, iwi, hapū, landowners, and key stakeholders.
28. If the Commission's decision is not to proceed with a reorganisation, no further action will be taken.
29. If the Commission's decision is to proceed with a reorganisation, the process after the completion of the investigation is publicly notified will be as follows:
 - (a) the Commission develops and adopts a reorganisation plan, including provisions for a transition body
 - (b) the Commission publicly notifies the adopted reorganisation plan and informs anyone with an interest
 - (c) the reorganisation plan is given effect to by an Order in Council made on the recommendation of the Minister of Local Government
 - (d) the Commission then develops a reorganisation implementation scheme which is given effect to by an Order in Council made on the recommendation of the Minister of Local Government
 - (e) the transition body implements the reorganisation.

Appendix A: Reorganisation Investigation Principles

In deciding its investigation process and undertaking an investigation relating to a reorganisation initiative, the Commission must have regard to following principles (LGA, Sched 3, cl. 7(3)):

- (a) early information should be available to the public and stakeholders about the issues to be investigated, the process to be followed, and the opportunities for public input; and
- (b) the process should be in proportion to the scale, scope, and potential impact of the identified issues and of any reorganisation plan that may result from the investigation; and
- (c) the process should recognise the relevant evidence and information that the Commission already holds; and
- (d) the process should recognise and reflect the nature and extent of the interests of affected iwi or hapū in the outcome of the investigation; and
- (e) the process should provide persons, entities, and organisations who wish to have their views on the subject matter of the investigation considered by the Commission with a reasonable opportunity to present those views to the Commission; and
- (f) the extent and nature of public and stakeholder engagement should—
 - (i) reflect the degree of public interest (including of each affected iwi or hapū) in the issues and in any reorganisation plan that may result from the investigation; and
 - (ii) reflect the importance of—
 - (A) stakeholder input; and
 - (B) community engagement; and
 - (C) public acceptance of the process and the potential outcome; and
 - (iii) appropriately balance the costs and benefits of different processes.