



Mana Kāwanatanga ā Rohe

Local Government Commission

Decision / Whakataunga

on whether to adopt a reorganisation plan for the transfer of land from Whakatane District to Kawerau District.

9 April 2024 / 9 Āpereira 2024

Purpose / Te take mō te pūrongo

1. This document sets out the Local Government Commission's decision on whether to adopt a reorganisation plan for the transfer of areas from Whakatane District to Kawerau District.

Decision / Whakataunga

2. The Local Government Commission has resolved, having had regard to the factors listed in clause 12, Schedule 3 of the Local Government Act 2002, to adopt a reorganisation plan for the transfer of land from Whakatane District to Kawerau District:
 - an area adjacent to Putauaki Industrial Park comprising several land parcels
 - land housing Tohia o te Rangī marae and surrounds
 - a part of Tuwharetoa Otarahanga Farm
3. The reorganisation plan adopted by the Commission including plans of the affected areas, is available at this link: <https://www.lgc.govt.nz/our-work/local-government-reorganisation/changes-to-the-boundary-between-kawerau-district-and-whakatane-district/>

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

Background / Horopaki

4. In April 2022 the Commission received a reorganisation initiative from Kawerau District Council (the Council) for the transfer of three areas at its boundary from Whakatane District to Kawerau District:
 - 3.1 an area adjacent to Putauaki Industrial Park (divided into two by intervening land parcels)
 - 3.2 land housing Tohia o te Rangi marae and surrounds
 - 3.3 a part of Tuwharetoa Otarahanga Farm
5. In accordance with clause 5, Schedule 3 of the Local Government Act (the Act), the Commission agreed to investigate the initiative. In October 2022, following consultation with affected local authorities, iwi and hapū, the Commission adopted and publicly notified an investigation process in line with clause 7, Schedule 3 of the Act.
6. During 2022 and 2023 the Commission invited Whakatane District Council and affected landowners/land administrators who had already indicated support for the initiative to provide any further comments. It also invited feedback from affected iwi and hapū, neighbouring landowners who had originally declined to be included in the initiative, the Bay of Plenty Regional Council, and the Kawerau and Whakatane communities.
7. In February 2023 the Commission visited the affected areas and met with representatives of both district councils, with Ngāti Tuwharetoa (Bay of Plenty) Kaumātua, and all affected and neighbouring landowners who wished to do so. These conversations revealed a lack of clarity amongst some landowners about what the proposed boundary change might mean for their land. The Commission asked the Council to reengage with these landowners to ensure they could reach an informed position on the proposed boundary changes.
8. The outcome of landowner engagement by the Commission and subsequent reengagement by the Council is written confirmation from all affected landowners expressing a preference for their land to be included in the Kawerau District. One landowner adjacent to Putauaki Industrial Park who had initially declined to support the initiative also confirmed their wish to be included.
9. In line with its investigation process, the Commission also invited public feedback from communities in the affected and surrounding area, between October 2022 and March 2023. As the feedback reflected a consistent level of support for the proposed boundary changes, the Commission decided not to hold a public hearing.
10. The investigation process indicated that the Commission would decide whether to adopt a reorganisation plan by the end of March 2024. Due to the timing of Commission meetings, this decision was dealt with in April.

11. Based on the engagement outlined above, and having regard to the criteria discussed below, the Commission considers an appropriate reorganisation plan should include the transfer of all the areas of land where landowners have confirmed support.

What the Commission must have regard to

12. There are two sets of criteria the Commission must have regard to when deciding whether to adopt a reorganisation plan:
 - 22.1 how the proposed reorganisation will meet the objectives set out in clause 10, Schedule 3 of the Local Government Act 2002 (the Act), and
 - 22.2 the factors set out in clause 12, Schedule 3 of the Act.

Objectives the Commission must consider in reorganisation investigation (cl. 10, Schedule 3)

13. Clause 10 of Schedule 3 of the Act states that in assessing the desirability of options for the reorganisation of local government within the affected area, the Commission must take into account how best to achieve specific objectives.

Clause 10(a): Better fulfilment of the purpose of local government as specified in section 10

14. The purpose of local government as set out in section 10 of the Act is:
 - 24.1 to enable democratic local decision-making and action by, and on behalf of, communities; and
 - 24.2 to promote to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.

Democratic decision-making

15. The boundary alterations do not alter the structure of democratic community governance affecting either district. They are restricted to moving several defined areas from one jurisdiction to another.
16. None of these changes require immediate change to the structure of governance and representation in either district. There is currently only one resident across the areas at which boundaries are altered. If in future, residential or papakainga development occurs in these areas, any population will for practical purposes comprise part of the Kawerau community. Any significant population changes could be appropriately addressed through future council representation reviews. It is most appropriate that the areas should be part of the Kawerau District for governance, representation and accountability purposes.

Promotion of wellbeing

17. Provision of adequate land for industrial development provides places for people to work. This is basic to promoting the social, economic, environmental, and cultural well-being of communities. With the decline of the forestry processing industry affecting the Kawerau economy, the community must look to wider growth opportunities.
18. The boundary alteration at Putauaki Industrial Park better fulfils the purpose of local government relating to community wellbeing by unlocking economic growth opportunities associated with land serviced by the Kawerau District. More industrial zoned land is now required to accommodate anticipated industrial growth. The most appropriate land for this expansion is at the Industrial Park but is currently in the Whakatane District and not zoned for industrial use.
19. The Kawerau District Council has identified the Putauaki Industrial Park as one of three interconnected infrastructure developments considered instrumental to providing growth opportunities for the district. The other two are the Kawerau Container Terminal and an off-highway road linking the terminal with Kawerau's industrial zone. Together the projects are known as the Kawerau Putauaki Industrial Development (KPID). The KPID received \$20 million from the Provincial Growth Fund in 2020 towards development of the three projects.
20. Due to proximity the Kawerau District would provide infrastructure and services for this area. Including the area in Kawerau District will allow a single district council to plan for and regulate the development of the area in an integrated manner.
21. Bringing the areas at Tohia o te Rangi and Tuwharetoa Otarahanga Farm into Kawerau District promotes community wellbeing by better aligning the boundary with the Kawerau community. The principal hapū of Tohia o te Rangi marae are Ngāi Tamarangi and Ngāti Peehi who whakapapa to Ngāti Tuwharetoa (Bay of Plenty). Tuwharetoa Otarahanga Farm was part of a Treaty of Waitangi settlement with Ngāti Tuwharetoa (Bay of Plenty). The Kawerau District Council acknowledges Ngāti Tuwharetoa (Bay of Plenty) as tangata whenua of Kawerau. The changes ensure a legitimate basis for the Kawerau District Council to act in the interests of these areas, for which it already provides infrastructure and services.
22. The boundary change at Tohia o te Rangi also better fulfils the purpose of local government in relation to community wellbeing by supporting Ngāti Tuwharetoa (Bay of Plenty)'s aspiration to develop papakāinga housing on the land. Proximity means Kawerau District would be the most efficient provider of infrastructure and services for any such development.

23. The remaining boundary changes in the areas neighbouring Putauaki Industrial Park better align the Kawerau District's boundaries with the services and infrastructure it currently provides to these areas. Landowners are variously involved in forestry activities or have aspirations to develop papakāinga housing or food production enterprises that leverage their proximity to the off-highway road. The boundary change will allow administrative efficiency for these landowners by placing these operations within a single local authority area.

Clause 10(b) and (c): Productivity improvements within the affected local authorities; and efficiencies and cost savings

24. The boundary changes are unlikely to make a material difference to the productivity or efficiency of council operations. Each council will continue to provide services at similar scale, and institutional arrangements around service provision will not be affected.
25. Boundary alterations moving these areas into the Kawerau District are clearly far more efficient, however, than the alternative of Whakatane District undertaking the provision of the necessary services and infrastructure, or Kawerau District providing it under some form of cross boundary arrangement. This recognises the services and infrastructure Kawerau District already provides to the affected and adjoining areas and will facilitate integrated district planning, and the application of a single set of regulatory settings for land, or development of land that is currently split across two districts.

Clause 10(d): Assurance that any local authority established or changed has the resources necessary to enable it to effectively perform or exercise its responsibilities, duties, and powers

26. The scale of change being considered is not sufficient to have a material impact on the adequacy of the resources of either of the two affected councils. Both councils will continue to have their existing powers, and both will continue to have the necessary resources to undertake their responsibilities, duties and powers.
27. Infrastructure in the Kawerau District has capacity for a population of up to 15,000 people and the Council has continued to fund depreciation on its infrastructure assets. The District's population has been increasing since 2006 with a 2023 total population estimate of 7,820 (Statistics NZ), leaving excess infrastructure capacity for population growth.

Clause 10(e): Effective responses to the opportunities, needs, and circumstances of the affected areas

28. As discussed above, Kawerau District needs to pursue growth opportunities for its community. It has identified the KPID as an effective way to meet this need. Land identified for the expansion of Putauaki Industrial Park and the establishment of the off-highway road is within 5km of Kawerau town but currently in Whakatane District, adjacent to the boundary. It is approximately 35km from Whakatāne town. The Kawerau District Council will be best able to plan for, regulate, and maximise the benefits of such development if it occurs wholly within the District boundary.
29. As part of its focus on economic development, the Kawerau District Council has supported the formation of Industrial Symbiosis Kawerau (ISK), an industry cluster that includes members from a range of industry specialists located, operating, and employing in Kawerau. The ISK enables the sharing of resources to increase the viability and competitive advantages of its members. It has attracted industry interest in Kawerau by marketing the area's access to geothermal energy, forestry resources and transport/logistic links. Ensuring the KPID happens wholly within Kawerau supports current and future businesses in the area to maximise social and economic outcomes through participation in ISK.
30. At the 2018 Census, Kawerau District had close to the highest number of people per dwelling in the country, which the Council attributes to a shortage of housing. Papakāinga housing would go some way to easing housing pressures. The Kawerau District Council is better placed to plan and support the aspirations of Tuwharetoa kaumātua for papakāinga housing at Tohia o te Rangi, which is accessed from Kawerau, if this area is brought into Kawerau District.

Clause 10(f): Enhanced effectiveness, efficiency, and sustainability of local government services

31. The alteration in the boundaries reflects the Kawerau District Council's current provision of services as part of its district-wide networks. For practical purposes any development at these areas will necessitate increased access and levels of service from Kawerau District. Having the areas under the jurisdiction of Kawerau District ensures that the Council's long term, and asset management planning reflects the services it currently provides and will likely provide in future.

Clause 10(g) and (h): Better support for the ability of local and regional economies to develop and prosper; and enhanced ability of local government to meet the changing needs of communities for governance and services into the future

32. The boundary change at Putauaki Industrial Park facilitates efficient development of growth opportunities for Kawerau and the Eastern Bay of Plenty sub-region. Development of the KPID will provide for the co-location of forestry and manufacturing activities and distribution hubs, and reliable access to markets. In recommending provincial growth funding for the KPID, the Ministry of Business, Innovation and Employment identified the development as creating transformative, interrelated social and economic outcomes for Kawerau:
- a number of direct and indirect jobs
 - increased and more diverse business investment
 - more efficient transport connections to ports and markets
 - reducing the environmental and social impacts of industry growth by reducing heavy vehicle traffic and congestion issues, increasing road safety and reducing greenhouse gas emissions
 - optimising access to global markets or exporters across the Eastern Bay of Plenty
33. Bringing the area at Putauaki Industrial Park into the Kawerau District will facilitate efficient development by bringing it under a single planning and regulatory framework.

Clause 10(i): Effective provision for any co-governance and co-management arrangements that are established by legislation (including Treaty of Waitangi claim settlement legislation) and that are between local authorities and iwi or Māori organisations

34. The boundary alterations do not affect any co-governance and co-management arrangements that are established by legislation.

Whether to adopt a reorganisation plan (cl. 12, Schedule 3)

35. Clause 12(1) states that the Commission may develop and adopt one or more reorganisation plans “during or at the completion of an investigation”. Clause 12(2) states that in deciding whether to adopt a reorganisation plan, the Commission must have regard to the following:

Clause 12(2)(a): Scale of potential benefits

36. The Commission needs to consider “the scale of the potential benefits of the proposed changes in terms of the objectives set out in clause 10 and the likelihood of those benefits being realised”. This criterion effectively summarised the factors considered above in relation to clause 10.

37. The Kawerau District Council's reorganisation initiative outlines planned major industrial developments considered instrumental to growth opportunities for the District. The KPID incorporates three interconnected infrastructure developments; the Putauaki Industrial Park, the Kawerau Container Terminal, and an off-highway road linking the terminal with Kawerau's industrial zone. The scale of the potential benefits of the KPID to Kawerau and the Eastern Bay of Plenty sub-region in terms of jobs and expected economic growth is commercially sensitive, but is sufficient to attract approximately \$20 million from the Provincial Growth Fund¹.
38. Similarly, the ability of the Council to respond to the housing challenge facing Kawerau District reflects a core local authority role. Potential papakāinga housing at Tohia o te Rangi can most efficiently happen under a single local authority.
39. While the boundary changes do not in themselves unlock these growth opportunities, they ensure the Council can plan for and regulate the development of the areas in an integrated manner.

Clause 12(2)(b): Financial, disruption, and opportunity costs

40. The Commission must have regard to "the financial, disruption, and opportunity costs of implementing the proposed changes at the proposed time".
41. The financial, disruption and opportunity costs of implementing the change are not significant. While there may be considerable costs of preparing an area for industrial or papakāinga development these do not arise directly from the boundary adjustment. The changes affect relatively small areas of land totalling approximately 500 hectares, and a small number of landowners and current residents, in order to maximise the benefits for the Kawerau District and the wider region of any future economic growth.
42. The boundary change at Putauaki Industrial Park transfers only the portion of land suitable for development into Kawerau. While this will still mean rates levied by two different district councils, it will enable the landowner to undertake future development under a single set of planning rules.

Clause 12(2)(c): Risks and consequences of not implementing the proposed changes

43. The Commission needs to identify "the risks and consequences of not implementing the proposed changes at the proposed time".
44. The most imminent risk of not proceeding with the change at this time is that the ability of the Kawerau District Council to respond to growth pressures is delayed or impeded.

¹ Ministry of Business, Innovation and Employment, <https://www.mbie.govt.nz/dmsdocument/12238-red-29-jan-20-briefing-2030-19-20-kawerau-putauaki-industrial-development-package>

45. The scope of the KPID project indicates the significance of industrial development to the Kawerau economy. The project would likely proceed if the boundary changes did not, but inefficiencies will be generated by the cross-boundary nature of anticipated industrial growth and the provision of related infrastructure. The industrial community of interest will be split between districts.
46. A number of land parcels will remain divided by the district boundary should the boundary changes not proceed. This will perpetuate the administrative and regulatory complexity that landowners face in dealing with two separate district councils.
47. The potential for developing papakāinga housing at Tohia o te Rangi may be limited by similar complexities, whereby development will happen on land subject to Whakatane District planning and regulatory rules, but require related services, infrastructure and road access from Kawerau District.

Clause 12(2)(d): Effect on existing communities of interest

48. The Commission must have regard to “existing communities of interest and the extent to which the proposed changes will maintain linkages between communities (including iwi and hapū) and sites and resources of significance to them”.
49. The changes will improve the Council’s ability to make decisions that promote the wellbeing of the wider Kawerau community of interest, and the industrial community of interest within the District.
50. Ngāti Tuwharetoa ki Kawerau are acknowledged by the Council as tangata whenua of Kawerau. The areas at Tohia o te Rangi and Tuwharetoa Otarahanga Farm are owned by Ngāti Tuwharetoa individuals and the Ngāti Tuwharetoa (Bay of Plenty) PSGE respectively. The residents of any future papakāinga development at Tohia o te Rangi will form part of the broader Kawerau community. Transferring these areas into Kawerau better aligns the District’s boundaries with the Ngāti Tuwharetoa ki Kawerau rohe and the infrastructure and services Kawerau District Council already provides.
51. The KPID project will lead to growth of the industrial area on land adjacent to Putauaki Industrial Park but currently in Whakatane District. Transferring this area into Kawerau avoids splitting the industrial community of interest between districts. Several neighbouring land parcels are currently divided by the District boundary. Transferring these parcels wholly into Kawerau will eliminate administrative and regulatory complexity for the owners.
52. The Commission’s investigation process identified Ngāti Tūwharetoa (Bay of Plenty), Ngāti Awa, and Ngāti Rangitahi iwi as having interests in the affected areas.

53. The Commission met with Ngāti Tuwharetoa kaumātua in February 2023. Kaumātua raised no concerns about adverse effects on linkages to sites or resources of significance to them and have generally expressed support for the boundary changes. The Commission has also engaged with Ngāti Tuwharetoa (Bay of Plenty) Settlement Trust (NTST). The Trust similarly raised no concerns. The general manager of Tuwharetoa mai Kawerau ki te Tai, the organisation representing the collective interests of NTST beneficiaries, conveyed the Trustees' support for the boundary change at the Commission's February 2023 site visit to Tuwharetoa Otarahanga Farm.
54. Ngāti Awa is represented by Te Runanga o Ngāti Awa (TRONA), a post-settlement governance entity (PSGE). TRONA advised the Commission that Lake Pupuwharau, located at the affected area adjacent to Putauaki Industrial Park, is a water body of cultural heritage significance to Ngāti Awa people. TRONA did not identify any adverse effects on linkages to this or other sites for Ngāti Awa.
55. The Commission engaged with Te Mana o Ngāti Rangitihī Trust (TMoNRT), a PSGE representing Ngāti Rangitihī iwi and hapū. TMoNRT raised no concerns about adverse effects on linkages to sites or resources of significance to Ngāti Rangitihī, and provided written confirmation that it was satisfied with the boundary changes.

Clause 12(2)(e) and (f): Degree of public support and public opposition

56. The Commission should understand "the degree and distribution of demonstrable public support for the proposed changes within communities in the affected area" and similarly "the degree and distribution of any public opposition".
57. The affected areas are largely unpopulated. The Commission's investigation identified only one permanent resident, living at Area 2: Tohia o te Rangi Marae. This resident is also a Tuwharetoa kaumātua and Marae trustee, and in this capacity has confirmed support for the changes.
58. A resident population of fewer than 20 on land neighbouring the current Putauaki Trust Industrial Park has since been confirmed as seasonal workers. On the basis that they would be no more affected by the boundary change than the wider public, and only for the time they are in residence, the Commission's call for public feedback is considered sufficient opportunity to provide their views.
59. The Commission sought wider community feedback on the proposed boundary changes between October 2022 and March 2023. Albeit only four responses, community feedback generally supported and did not oppose the proposed changes.

60. The changes incorporate a number of land parcels under separate titles and ownership, managed variously as Māori reservation land, or by Post Settlement Governance Entities (PSGE), ahu whenua trusts, or whanau trusts. During the Commission's investigation all affected landowners, or trustees representing landowners confirmed their support for the boundary changes.
61. The Commission also engaged with two landowners of land parcels neighbouring the affected area at Putauaki Industrial Park who had initially opted out of the Council's reorganisation initiative. Following reengagement by the Kawerau District Council, one landowner has confirmed support for their land to be transferred to Kawerau District.

Next steps / Te ara ināianeī

62. The next statutory step is the making of an Order in Council to give effect to the reorganisation plan.
63. After that the Commission will develop a reorganisation implementation scheme setting out the detailed transitional arrangements. Once the Commission has adopted the scheme this is given effect by an Order in Council. This will complete the process.