



Local Government Commission
Mana Kāwanatanga ā Rohe

Report of the proceedings and operations of the
Local Government Commission

Te pūrongo mō ngā whakahaere me ngā mahi a te
Mana Kāwanatanga ā-Rohe

For the year ended 30 June 2022
Mō te tau i mutu i te 30 Hune 2022

*Presented to the House of Representatives pursuant to
clause 31 of Schedule 4 of the Local Government Act 2002.*

*He mea whakatakoto atu ki Te Whare o Ngā Māngai i raro i te
whiti 31 o te Hōtaka 4 o Te Ture Kāwanatanga ā-Rohe 2002.*

Minister of Local Government
Parliament Buildings
Wellington

Tēnā koe Minister

We forward, in accordance with clause 31 of Schedule 4 of the Local Government Act 2002, the report of the Local Government Commission for the year ending 30 June 2022.

Nāku noa, nā

The Local Government Commission

Brendan Duffy	Chairperson
Bonita Bigham	Commissioner

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Introduction

Kōrero whakataki

The Local Government Commission (the Commission) is an independent statutory body established under the Local Government Act 2002. The principal functions of the Commission are:

- Promoting good local government in New Zealand through promoting good practice in local government and providing information about local government;
- Reorganisation of local authorities; and
- Reviewing and making any required decisions on the electoral representation arrangements of local authorities.¹

In the year ending 30 June 2022, the Commission has been actively involved in each of the above three principal functions. Issues dealt with are discussed further below.

Membership

Ngā mema

At the beginning of the year the Commission comprised:

- Brendan Duffy (Chairperson)
- Janie Annear
- Bonita Bigham (temporary appointment)
- Sue Piper

In April 2022 Janie Annear and Sue Piper completed their terms with the Commission. Brendan Duffy and Bonita Bigham continued as Chairperson and Commissioner respectively. At 30 June 2022 an appointments process was underway to fill the remaining vacancy.

The Commission acknowledges, with regret, the death of Tā Wira Gardiner in March 2022. Tā Wira was Chair of the Commission from 2015 until 2018. E moe e te rangatira.

Promoting good local government

Te hāpai i ngā kāwanatanga mahi pai

A review of Council Codes of Conduct

He arotake i Ngā Tikanga Whanonga a Ngā Kaunihera

As part of its focus on good governance in local government, the Commission is interested in addressing governance issues across the sector. It has previously been identified that

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

conduct issues and difficulties in dealing with them has been of concern to the local government sector. This led the Commission to undertake a review of the purpose, use and effectiveness of Council codes of conduct.

On 1 October 2021 the Commission presented its final report and recommendations on Council Codes of Conduct to the Minister of Local Government. The Commission's report and recommendations were the result of extensive engagement with the local government sector and stakeholders over 2020 and the first half of 2021, as described in the Commission's previous Annual Report. The recommendations covered the following key themes:

- Structured and ongoing training and professional development opportunities focused on increased leadership and governance skills, including a structured entry pathway for candidates considering standing for local authorities
- Mechanisms for elected members to agree shared values, behaviours and principles early in the triennium, and increased support for elected members to work together in undertaking their governance role
- Increased standardisation of codes of conduct to address content gaps, including improved clarity around principles of good governance behaviour, a clear complaints process, improved definitions of materiality, including seriousness of breaches, with an independent body to check appropriateness of codes
- Standardisation of penalties and increased mechanisms for enforcement; and
- Guidance on the proactive release of information, particularly where a breach is upheld.

The Minister's response of 28 April 2022 agreed to the Commission forming and lead a working group to inform the development of a sector specific governance education framework which will support elected members, and the council staff working with them, with their learning and development from pre-candidacy through to long service.

The Commission has begun preparatory work for the formation of the working group. This work is to be progressed within the context of the Ministerial Review into the Future for Local Government. Accordingly, the Commission expects to present a report on a governance specific education framework to the Minister of Local Government in the first half of 2023.

Local government reorganisation

Te whakaraupapa anō i ngā kaunihera

Greater Bunnythorpe Community Board

In December 2021, the Commission received an appeal relating to a community proposal for a Greater Bunnythorpe Community Board that was rejected by the Palmerston North City Council in August 2021. In June 2022, the Commission sought further information from both the appellant and the Council relating to the needs of the community and how

these should be best addressed. This information will help inform the development of a robust process for determining the appeal.

Kawerau District/Whakatane District boundary alterations

The Kawerau District Council lodged a reorganisation initiative with the Commission in April 2022, proposing the transfer of three areas from Whakatane District to Kawerau District. In June 2022 the Commission agreed to investigate the initiative. It notified affected local authorities, iwi and hapū, and began developing a draft investigation process.

Representation reviews Ngā arotake whai kanohitanga

Forty-four local authorities reviewed their representation arrangements under the Local Electoral Act 2001 (the LEA) in this electoral cycle. This was a greater number than typical for a given electoral cycle due to 32 of those local authorities establishing Māori wards or constituencies following changes in the LEA.

Of the 44 local authorities, the Commission determined 31 representation reviews over a period of six months and by the statutory deadline of 11 April 2022. It was required to consider those reviews because appeals or objections were lodged against the local authorities' decisions or because, in some cases, local authorities sought exemptions for proposed representation arrangements that did not comply with the +/-10% fair representation rule in section 19V(2) of the LEA². The Commission's determinations on those reviews are summarised in the following table:

Local authority	Number of appeals or objections	Council's proposal	Commission's decision
Christchurch City Council	24	<ul style="list-style-type: none"> 16 councillors elected from 16 wards No Māori ward/s established 6 community boards (was 7) The Banks Peninsula Ward and three of the four subdivisions of the Pātaka o Rākaihautū Banks Peninsula Community non complying with section 19V(2) 	Council's proposal upheld, except for minor boundary changes

² 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
Far North District Council	-	The Te Hiku General Ward and five of 13 Community subdivisions not complying with section 19V(2)	Council's proposal upheld
Gisborne District Council	126	<ul style="list-style-type: none"> • 13 councillors: <ul style="list-style-type: none"> - 5 elected from 1 Māori ward - 8 from two general wards <p>(was 13 councillors elected from 5 wards)</p>	<p>Council's proposal not upheld. Instead, based on Council's initial proposal, a council comprising:</p> <ul style="list-style-type: none"> • 5 councillors elected from 1 Māori ward • 8 councillors elected from 1 general ward
Hamilton City Council	2	<ul style="list-style-type: none"> • 14 councillors: <ul style="list-style-type: none"> - 2 elected from 1 Māori ward - 12 elected from 2 general wards <p>(was 12 councillors elected from 2 wards)</p>	Council's proposal upheld
Hastings District Council	2	<ul style="list-style-type: none"> • 15 councillors: <ul style="list-style-type: none"> - 3 elected from 1 Māori ward - 12 elected from 5 general wards - (was 14 elected from 5 wards) • 1 community board • The Flaxmere, Heretaunga and Kahurānaki General Wards not complying with section 19V(2) 	Council's proposal upheld
Hawkes Bay Regional Council	1	<ul style="list-style-type: none"> • 11 councillors <ul style="list-style-type: none"> - 2 elected from 2 Māori constituencies - 9 elected from 5 general constituencies - (was 9 elected from 5 constituencies) • Both Māori constituencies and all but 1 general constituency not complying with section 19V(2) 	Council's proposal upheld, except for minor boundary changes
Horowhenua District Council	2	<ul style="list-style-type: none"> • 12 councillors <ul style="list-style-type: none"> - 2 elected from 1 Māori ward - 10 elected from 4 general wards - (was 10 elected from 4 wards) • The Kerekere and Waiopahu General Wards not complying with section 19V(2) 	Council's proposal upheld

Local authority	Number of appeals or objections	Council's proposal	Commission's decision
Kapiti Coast District Council	11	<ul style="list-style-type: none"> • 10 councillors <ul style="list-style-type: none"> – 5 elected from 4 wards – 5 elected at large • No Māori ward/s established • 5 community boards (was 4) • The Ōtaki and Waikanae Wards not complying with section 19V(2) 	<p>Council's proposal not upheld, and instead a council comprising:</p> <ul style="list-style-type: none"> • 7 councillors elected from four reconfigured wards • 3 councillors elected at large • 5 reconfigured community boards
Mackenzie District Council	-	The Tekapo Ward not complying with section 19V(2)	Council's proposal upheld
Manawatu District Council	4	<ul style="list-style-type: none"> • 9 councillors: <ul style="list-style-type: none"> – 1 elected from 1 Māori ward – 8 elected from 2 general wards <p>(was 10 elected from 2 wards)</p>	<p>Council's proposal for membership not upheld, and instead a council comprising 11 councillors:</p> <ul style="list-style-type: none"> • 10 councillors elected from 2 general wards • 1 councillor elected from 1 Māori ward
Manawatū-Whanganui Regional Council	1	<ul style="list-style-type: none"> • 14 councillors <ul style="list-style-type: none"> – 2 elected from 2 Māori constituencies – 12 elected from 6 general constituencies – (was 12 elected from 6 constituencies) • 5 general constituencies not complying with section 19V(2) 	Council's proposal upheld
Marlborough District Council	1	<ul style="list-style-type: none"> • 14 councillors: <ul style="list-style-type: none"> – 1 elected from 1 Māori ward – 13 elected from 3 general wards – (was 13 elected from 3 wards) • The Marlborough Sounds General Ward not complying with section 19V(2) 	Council's proposal upheld
Matamata-Piako District Council	-	The Te Aroha General Ward not complying with section 19V(2)	Council's proposal upheld

Local authority	Number of appeals or objections	Council's proposal	Commission's decision
Nelson City Council	1	<ul style="list-style-type: none"> • 12 councillors <ul style="list-style-type: none"> – 1 elected from 1 Māori ward – 8 elected from 2 general wards – 3 elected at large <p>(was 12 elected at large)</p>	Council's proposal upheld
New Plymouth District Council	2	<ul style="list-style-type: none"> • 14 councillors: <ul style="list-style-type: none"> – 1 elected from 1 Māori ward – 8 elected from 3 general wards – 5 elected at large – (was 14 elected from 3 wards) • 5 community boards 	Council's proposal upheld, except for minor boundary changes
Northland Regional Council	2	<ul style="list-style-type: none"> • 9 councillors: <ul style="list-style-type: none"> – 2 elected from 1 Māori constituency – 7 elected from 7 general constituencies – (was 9 elected from 7 constituencies) 	Council's proposal upheld
Ōtorohanga District Council	-	The two subdivisions of the Kāwhia Community not complying with section 19V(2)	Council's proposal upheld
Porirua City Council	1	<ul style="list-style-type: none"> • 10 councillors: <ul style="list-style-type: none"> – 1 elected from 1 Māori ward – 9 elected from 2 general wards – (was 10 elected from 3 wards) 	Council's proposal upheld
Rangitikei District Council	1	<ul style="list-style-type: none"> • 11 councillors <ul style="list-style-type: none"> – 2 elected from 2 Māori wards – 9 elected from 3 general wards – (was 11 elected from 3 wards) • 2 community boards • The Southern General Ward not complying with section 19V(2) 	Council's proposal upheld
Rotorua District Council	12	<ul style="list-style-type: none"> • 10 councillors: <ul style="list-style-type: none"> – 1 elected from 1 Māori ward – 1 elected from 1 general ward – 8 elected at large – (was 10 councillors elected at large) • 2 community boards 	Council's proposal not upheld, instead a council comprising 10 councillors: <ul style="list-style-type: none"> • 3 elected from 1 Māori ward, 7 elected from 2 general wards • 2 community boards

Local authority	Number of appeals or objections	Council's proposal	Commission's decision
Ruapehu District Council	5	<ul style="list-style-type: none"> • 11 councillors: <ul style="list-style-type: none"> – 3 elected from 1 Māori ward – 8 elected from 2 general wards – (was 11 elected from 4 wards) • 3 community boards (was 2) 	<p>Council's proposal not upheld, instead a council comprising 9 councillors:</p> <ul style="list-style-type: none"> • 3 elected from 1 Māori ward, 6 from 1 general ward • 3 community boards
Selwyn District Council	1	<ul style="list-style-type: none"> • 10 councillors elected from 4 wards (was 11 elected from 4 wards) • 1 community board 	Council's proposal upheld
South Taranaki District Council	-	The Te Tai Tonga and Te Kūrae Māori Wards, and the Taranaki Coastal and Pātea General Wards not complying with section 19V(2)	Council's proposal upheld
Taranaki Regional Council	2	<ul style="list-style-type: none"> • 11 councillors <ul style="list-style-type: none"> – 1 elected from 1 Māori constituency – 10 elected from 4 general constituencies – (was 11 elected from 4 constituencies) • The Stratford General Constituency not complying with section 19V(2) 	Council's proposal upheld except for boundary alterations to align constituency boundaries with district council ward boundaries
Taupo District Council	1	<ul style="list-style-type: none"> • 12 councillors: <ul style="list-style-type: none"> – 2 elected from 1 Māori ward – 10 elected from 4 general wards – (was 11 elected from 4wards) • No community boards (was 1) 	Council's proposal upheld
Tauranga City Council	17	<ul style="list-style-type: none"> • 9 councillors: <ul style="list-style-type: none"> – 1 elected from 1 Māori ward – 8 elected from 8 general wards – (was 10; 6 elected from 3 wards, 4 elected at large) 	Council's proposal upheld (to apply to election at the end of the current Tauranga Commission's term)
Waikato District Council	27	<ul style="list-style-type: none"> • 13 councillors: <ul style="list-style-type: none"> – 2 elected from 2 Māori wards – 11 elected from 8 general wards – (was 13 elected from 10 wards) • 6 community boards (was 5) • The Western Districts General Ward not complying with section 19V(2) 	<p>Council's proposal upheld, subject to:</p> <ul style="list-style-type: none"> • minor ward boundary changes • changes to 3 ward names • extending the Raglan Community

Local authority	Number of appeals or objections	Council's proposal	Commission's decision
Waipa District Council	1	<ul style="list-style-type: none"> • 11 councillors: <ul style="list-style-type: none"> – 1 from 1 Maori ward – 10 from 4 general wards – (was 13 councillors elected from 5 wards) • 2 community boards 	Council's proposal upheld
Wellington City Council	2	<ul style="list-style-type: none"> • 15 councillors <ul style="list-style-type: none"> – 1 elected from 1 Māori ward – 14 elected from 5 general wards – (was 14 councillors elected from 5 wards) • 2 community boards • 3 general wards not complying with section 19V(2) 	Council's proposal upheld
Whakatāne District Council	-	The Rangitāiki Māori Ward and the Te Urewera subdivision of the Murupara Community not complying with section 19V(2)	Council's proposal upheld
Whangarei District Council	122	<ul style="list-style-type: none"> • 12 councillors <ul style="list-style-type: none"> – 2 elected from 1 Māori ward – 10 elected from 1 general ward – (was 13 elected from 6 wards) 	<p>Council's proposal not upheld, instead a council comprising 13 councillors:</p> <ul style="list-style-type: none"> • 2 elected from 1 Māori ward • 11 elected from 5 general wards.

The year ahead

Te tau e tū mai

The primary focus of the Commission in 2021-2022 will be the following activities:

- Continuing engagement with the local government sector on matters relating to good local government and representation issues
- Completing identification of a governance specific education framework and reporting back to the Minister of Local Government in the first half of 2023
- Considering the appeal for the establishment of a Greater Bunnythorpe Community Board
- Investigating the reorganisation initiative lodged by Kawerau District Council
- Dealing with any new reorganisation initiatives or requests it receives
- Where requested, participating in the review into the Future for Local Government, and observing any outcomes in the draft report

Appendix 1

Duties and functions of the Commission Ngā mahi a te Mana Kāwanatanga ā-Rohe

Local Government Act 2002

Under this Act the Commission has a number of responsibilities. These are:

- (a) under section 16(7), 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 amend reorganisation plans and reorganisation implementation schemes;
- (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, 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, 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;
- (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 undertake reorganisation investigations³ following receipt of reorganisation initiatives⁴ and reorganisation requests⁵;
- (i) under Schedule 3, clause 22B to review local authority-led reorganisation applications;
- (j) under Schedule 3, clause 31 to consider for rulings that material published by a local authority complies with clause 31(1);
- (k) under Schedule 3, clause 41 to prepare and issue reorganisation implementation schemes;

³ A reorganisation investigation can result in recommendations to a local authority, one or more reorganisation plans or both.

⁴ A reorganisation initiative seeks a specific reorganisation, i.e. the union, constitution, and abolition of districts and regions, creation of unitary authorities, boundary alterations, and transfers of responsibility.

⁵ A reorganisation request seeks an investigation into an issue or matter but without proposing a particular reorganisation.

- (l) under Schedule 3, clause 53, to decide the apportionment of assets and liabilities between local authorities following implementation of a reorganisation scheme, where there is disagreement;
- (m) 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

Section 517T of this Act provides that the Commission must 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 and Schedule 1A, to consider and determine appeals and objections relating to a local authority's representation proposals for the next triennial local elections;⁶
- (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.

⁶ In the case of a representation review undertaken by the Bay of Plenty Regional Council the Bay of Plenty Regional Council (Maori Constituency Empowering) Act 2001 also applies.

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.

Port Companies Act 1988

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.

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