



Report of the Local Government Commission

for the year ended
30 June 2003

*Presented to the House of Representatives Pursuant
to Clause 10 of Schedule 3A to the Local Government
Act 1974.*

The Hon Chris Carter
Minister of Local Government
Parliament Buildings
WELLINGTON

Minister,

We forward, in terms of clause 10 of Schedule 3A to the Local Government Act 1974,
the report of the Local Government Commission to 30 June 2003.

Yours faithfully

The Local Government Commission

Grant Kirby	Chairman
Linda Constable	Commissioner
Kerry Marshall	Commissioner

THE LOCAL GOVERNMENT COMMISSION

The Local Government Commission is constituted under Part IIA of the Local Government Act 1974. The Act provides that the Commission shall consist of three members appointed by the Minister of Local Government.

The 11th Commission was appointed in June 2001. Its members are:

Mr Grant Kirby ONZM (Chairman), appointed to 30 June 2005

Mrs Linda Constable, appointed to 30 June 2004

Mr Kerry Marshall, appointed to 30 June 2004.

With the coming into effect of the relevant provisions of the Local Government Act 2002 on 1 July 2003, the Commission will continue under section 28 of that Act.

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INTRODUCTION

The 2002/03 year in review

In the 2002/03 year the major issue before the Commission was the review of the Otorohanga and Waitomo Districts. The Commission heard submissions on the review and commissioned an independent assessment of the financial costs and benefits associated with several reorganisation options.

The Commission reviewed its processes and guidelines in preparation for the relevant provisions of the new Local Government Act 2002 coming into effect from 1 July 2003.

In April 2003 the Commission issued guidelines in relation to reviews of local authority representation, as required under the Local Electoral Act 2001. Commission member Kerry Marshall and the Chief Executive Officer also gave a presentation to the Society of Local Government Managers' Electoral Officer workshop in April 2003 on the new statutory requirements relating to representation reviews.

LOCAL GOVERNMENT REORGANISATION

Proposal for the union of the Waitomo District and the Otorohanga District

On 3 August 2001 the Waitomo District Council initiated a proposal for the union of the Waitomo District and the Otorohanga District.

On receipt of the proposal the Commission consulted with the affected and adjoining local authorities, and central government agencies. After considering the information gathered from the consultation process the Commission resolved on 7 November 2001 to conduct a review of the Waitomo and Otorohanga Districts.

Seventy-two public submissions and submissions from 16 consulted organisations were received on the review. The Commission heard the submissions at a hearing held in Otorohanga and Te Kuiti on 28 and 29 August 2002. It also held a hui with local iwi and hapu at Waipapa Marae, Kawhia, on 30 August 2002.

In November 2002 the Commission initiated a study into the costs and benefits of the amalgamation of the Otorohanga and Waitomo Districts, and of the amalgamation of those districts with the Waipa District.

At the time of preparing this report the Commission has yet to determine the outcome of the review.

BOUNDARY ALTERATION PROPOSAL

Opotiki and Whakatane Districts

On 27 June 2003 the Commission received notification of a proposal initiated by 38 residents of Opotiki District, for the transfer of an area in the north-western part of Opotiki District to the Whakatane District.

At the time of preparing this report the Principal Local Authority to consider the application has yet to be determined.

PROPOSAL FOR THE CONSTITUTION OF A COMMUNITY

Gore District – proposed Mataura Community

On 23 June 2003 the Commission received notification of the Gore District's Council's intention to establish a Mataura Community for the area of the Mataura Ward of Gore District. The Council's decision followed the initiation of a proposal by a number of electors of the Mataura Ward.

On 26 June 2003 the Commission granted its consent to the constitution of the Gore Community in accordance with section 101ZG of the Local Government Act 1974.

APPLICATION FROM THE TAURANGA DISTRICT COUNCIL TO BECOME THE TAURANGA CITY COUNCIL

On 3 January 2003 the Commission received an application from the Tauranga District Council to become the Tauranga City Council. The application was lodged by the Council under section 27 of the Local Government Act 2002.

The new Act provides that a territorial authority may apply to the Commission for such a name change instead of initiating a reorganisation proposal.

As section 27 of the Local Government Act 2002 did not take effect until 1 July 2003 the Commission deferred a decision on the proposal until the 2003/04 year.*

* The Commission approved the Council's application on 22 July 2003.

TIMARU DISTRICT COUNCIL – REQUEST FOR INVESTIGATION OF LEASES ENTERED INTO REGARDING THE TEMUKA RECREATION RESERVE

On 19 July 2002 the Commission received a letter from solicitors acting for the Timaru District Council, seeking an investigation under the Local Authority Reorganisation (Property Transfers) Act 1990 of certain leases entered into by the former Temuka Borough Council with local sporting organisations over part of the Temuka Reserve.

After seeking and receiving further information from the Council's solicitors, the Commission on 5 March 2003 resolved to investigate the leases as liable transactions under the Act. On 30 April 2003 the Commission wrote to the persons who were members of the Temuka Borough Council at the time the leases were entered into and the sporting club lessees regarding its investigation and providing the opportunity for them to meet with and/or to make written submissions to the Commission on the matter.

At the time of preparing this report the Commission has yet to complete its investigation.

CHATHAM ISLANDS COUNCIL – FUTURE GOVERNANCE AND FUNDING ARRANGEMENTS

On 12 June 2003 the Commission received a letter from the Minister of Local Government, outlining the Government's decisions regarding the future governance and funding arrangements for the Chatham Islands Council.

As a result of the Government's requirements that the Chatham Islands Council contract with a mainland regional council or unitary authority to carry out the Council's regional council functions on its behalf, the Commission has been notified by the Minister that he will, under section 31 of the Local Government Act 2002, require the Commission to report to him by on:

- the Chatham Islands Council's draft request for proposal regarding the provision of regional council services; and
- the Chatham Islands Council's decision on the preferred tender.*

* The Commission received the terms of reference for its task from the Minister of Local Government on 30 July 2003.

THE COMING YEAR

The Commission expects to determine the outcome of the review of the Otorohanga and Waitomo Districts.

Much of the Commission's time and resources will be focused on considering appeals and objections received against local authority representation proposals for the October 2004 local elections. The Commission is required to issue its determinations on the representation arrangements by 10 April 2004.

Under section 32 of the Local Government Act 2002 the Commission is required to report to the Minister of Local Government as soon as practicable after the 2007 local elections regarding its review of the operation of the Local Government Act 2002 and the Local Electoral Act 2001. The Commission is also required to report to the Minister no later than 1 July 2005 if it considers that amendments should be made to either or both of the Acts before the triennial local elections in 2007. In 2003/04 the Commission will develop and implement its plan for undertaking the review.

With effect from 1 July 2003 the Commission will establish a register of Commission members' interests, as required under Schedule 4 to the Local Government Act 2002.

The Commission will report to the Minister of Local Government on Chatham Islands Council issues in accordance with the terms of reference set by the Minister.

The Commission will also consider its approach to its new functions under section 30 of the Local Government Act 2002, enabling the Commission to provide information about local government and to promote good practice relating to a local authority or to local government generally.

ACKNOWLEDGEMENTS

The Commission thanks its staff for their assistance during the year. Thanks are also due to Land Information New Zealand and Statistics New Zealand for their assistance to the Commission.

The Commission also wishes to thank the local authorities it has dealt with during the year for their co-operation and assistance.

APPENDIX

DUTIES AND FUNCTIONS OF THE LOCAL GOVERNMENT COMMISSION

Local Government Act 1974*

Under the Local Government Act 1974 the Commission has a number of roles. These are:

- (a) under section 37X, of its own motion or at the request of the Minister, to report on, and make recommendations to the Minister on matters relating to local government;
- (b) under section 37ZV, to determine the principal local authority to be responsible for preparing any draft reorganisation scheme for reorganisation proposals to alter the boundaries of a district or region, or to transfer a function from one local authority to another;
- (c) under Part IIBA, to hear and determine appeals in relation to any decision of a principal local authority affecting a draft reorganisation scheme to give effect to a proposal for the alteration of boundaries or the transfer of functions;
- (d) under Part IIBB, to receive, consider and, where appropriate, prepare reorganisation schemes for reorganisation proposals for the constitution or abolition of territorial districts or regions, and proposals for the establishment of unitary authorities;
- (e) under section 37ZZZN, to consider and, where appropriate, make determinations on applications from local authorities to extend the area of a district over which a local authority may levy rates to cover loan charges and repayments;
- (f) under section 37ZZZO, to consider and, where appropriate, make determinations amending the provisions of a final reorganisation scheme where it is satisfied that either -
 - (i) some further or other provision is necessary to enable or better enable the intention of the scheme to be put into effect; or
 - (ii) some provision of the scheme is no longer relevant to the intention of the scheme;
- (g) under section 101J, to hear and determine appeals and counter-objections relating to a local authority's proposals for ward or constituency membership and the number of its members following a triennial review of membership and of the basis of election;

- (h) under Part IVB -
 - (i) to consider and determine proposals for the constitution of communities;
 - (ii) to consider appeals where a territorial authority declines a request from its electors to constitute a community; and
 - (iii) to make determinations on proposals for the abolition or alteration of the boundary of a community, or the union of communities, where there is disagreement between a community board or boards and the parent territorial authority;
- (i) under section 318, where requested, to determine the vesting, control, construction, and maintenance of a road which forms the boundary between districts;
- (j) under section 517T, to hear and consider objections regarding proposals for the transfer of ownership and administration of local authority land drainage and water race schemes, and to determine whether the transfer is to proceed;
- (k) under Schedule 3B, to be an arbiter on the apportionment of assets and liabilities between authorities, following implementation of a reorganisation scheme, where there is disagreement.

Local Authority Reorganisation (Property Transfers) Act

Under the Local Authority Reorganisation (Property Transfers) Act 1990 the Commission may investigate property dealings of any former local authority between 14 November 1988 and 31 October 1989 and, where the Commission considers it appropriate, require that those dealings be rectified.

Rating Powers Act#

Section 127 of the Rating Powers Act 1988 provides that the Commission may determine the basis for the collection of a regional council's rates by a territorial authority where the authorities do not reach an agreement between themselves.

New Zealand Public Health and Disability Act

Clause 20 of the Second Schedule to the New Zealand Public Health and Disability Act 2000 provides that the Minister of Health may request the Minister of Local Government to refer to the Local Government Commission for inquiry and report any question relating to the union, reconstitution, or alteration of the boundaries of any district or constituency of a District Health Board.

Electoral Act

Section 28 of the Electoral Act 1993 provides that the Chairperson of the Local Government Commission is to be a member of the Representation Commission.

Museum of Transport and Technology Act

Section 20(10) of the Museum of Transport and Technology Act 2000 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.

Auckland War Memorial Museum Act

Section 23(6) of the Auckland War Memorial Museum Act 1996 provides that if the district of a contributing authority is altered or incorporated into the district of an adjoining authority, the Local Government Commission, in the exercise of its jurisdiction in regard to the constitution, alteration, union or abolition of the district of a territorial authority, is empowered to review the effect of levies on local authorities upon the matter before it, and to make such other provision in that behalf and for such period as it may consider appropriate.

Auckland Metropolitan Drainage Act

Section 8(3) of the Auckland Metropolitan Drainage Act 1960 provides that if objections are received to proposals for the alteration of the boundaries of the Auckland Metropolitan Drainage District or the District's Inner Area, then the Governor-General may direct the Local Government Commission to inquire into and report on the proposals.

* With effect from 1 July 2003 most of the powers, duties and functions of the Commission prescribed under the Local Government Act 1974 will be prescribed under the Local Government Act 2002. However, section 318 of the Local Government Act is not repealed, and provisions relating to local authority representation arrangements are now contained in the Local Electoral Act 2001.

With effect from 1 July 2003 the Local Government (Rating) Act 2002 comes into effect, and the Rating Act is revoked. The new Act does not prescribe a specific role for the Commission.

Local Government Commission

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