

Terms of Reference for a Commission (Under section 258F of the Local Government Act 2002)

Appointment

Pursuant to section 258F of the Local Government Act 2002 (the Act), the Minister of Local Government (the Minister) gives notice of her appointment of a Commission to the Tauranga City Council (the Council) to perform and exercise the Council's responsibilities, duties, and powers.

The Minister gives notice that the following persons have been appointed as members of the Commission:

Anne Tolley
William (Bill) Wasley
Stephen Selwood
Shadrach Rolleston

together referred to as the "Commissioners".

Pursuant to section 258G of the Act, the Minister gives notice of her appointment of Anne Tolley as the chair of the Commission.

Background

An independent review of the Council by an Observer Team identified significant governance problems among the Council's elected representatives. The Council is also facing substantial infrastructure and funding challenges that need to be addressed in its 2021-31 Long-term plan.

On 20 November 2020, the Council wrote to the Minister requesting that she appoint a Crown Manager and a Crown Observer to help it address its problems.

The Minister determined that the governance issues at the Council meet the threshold for Crown intervention under Part 10 of the Act, and that the Crown intervention should take the form of a Commission.

Section 258F (1) of the Act provides for the Minister to appoint a Commission to a local authority if the Minister believes, on reasonable grounds, that:

- a significant problem relating to the local authority is impairing, or likely to impair, the good local government of the local authority's district or region; and
- the local authority is unable or unwilling to effectively address the problem; and
- the problem is such that appointing a Crown Review Team, Crown Observer, or a Crown Manager to the local authority is unlikely to prevent the consequences of the issues.

On 2 February 2021 the Minister informed Cabinet of her intention to appoint a Commission to the Council. Cabinet noted the decision and agreed to the appointment of the commissioners.

Extent of authority

The Commission must perform the functions and duties of the Council and exercise the powers of the local authority, and its members, under the Act and any other enactment to the exclusion of the members of the local authority.

To avoid doubt, the Commission:

- (a) must perform any functions or exercise any powers directly conferred on the mayor or chair, or any other member, of a local authority by or under any enactment;
- (b) may exercise all the powers of the local authority to set, assess, and collect rates and charges within the district or region and expend their proceeds; and
- (c) may appoint members of the local authority to a committee or subcommittee established under Schedule 7 of the Act.

The Commission must ensure, as far as practicable, that the existing organisational capability of the local authority is not diminished.

The Commission is bound by all relevant statutory provisions that are applicable to Crown appointees.

Role of the Commission

The Commission is required to perform the following tasks as outlined below:

- determine a mechanism for engaging with the community, iwi, elected representatives and other stakeholders to rebuild confidence and trust in the Council;
- deliver a robust and fit-for-purpose 2021-31 Long-term plan that adequately prioritises the needs of the community, city and region;
- continue to identify the extent of the problems faced by the Council and engage in existing Council initiatives or other actions to address these issues;
- continue to work with the Council's chief executive to build capability and capacity within the Council organisation;
- actively seek to collaborate and co-operate with other local authorities to further achieve the objectives of agreed plans and strategies to manage transport and urban development in a high-growth region (including, but not limited to, Smart Growth, the Urban Form and Transport initiative, and the Western Bay of Plenty Transport System Plan);
- develop a clear and comprehensive exit plan to facilitate a smooth transition back to an elected Council; and

- any other tasks the Commission determines to be necessary to restore the trust and confidence of the community in the Council.

Term of the Appointment

The term of the Commission begins on 9 February 2021. The term of the Commission will end on the day after the date elected members of the Council are declared, following the 2022 local authority triennial general elections.

Time Commitment

It is anticipated that the weekly workload through to the end of June 2021 will be up to three or four days for the Chair and two to three days for commissioners. Thereafter, the workload is likely to reduce to one or two days per week for the duration of the Commission.

Fees and Expenses

The fees for the Commissioners will be allocated from funds belonging to the Council. Fees will be paid in accordance with the daily fees agreed by Cabinet as set out in the Cabinet Fees Framework. Expenses incurred by the Commissioners will be reimbursed from Council funds in accordance with the Fees and Travelling Allowances Act 1951.

The chair is responsible for ensuring the Commissioners' fees stay within approved levels and that any expenses claimed by Commissioners are reasonable and necessary.

Advice and Administrative support to the Commission

As the governing body of the Council, the Commission will be supported by its Chief Executive. The Commission may also engage such other support or advice that it may require.

Reporting requirements

The Commission will report at least every three months to the Minister with progress towards achieving the tasks outlined in this Terms of Reference.

The Commission must produce a final report that complies with section 258U of the Act, as soon as practicable after the term of the Commission ends.