

Appendix A

NORTHLAND REGIONAL COUNCIL SUPPLEMENT TO THE AGENDA

For an Ordinary Meeting of the Council to be held in the Council Chambers,
Northland Regional Council, 36 Water Street, Whangarei,
on Wednesday, 21 April 2010 at 1 pm

File D2.2 (105.2)

OPEN MEETING

Item		Page
1.	Update on Official Information Request – McKinlay Douglas Report on Local Government Options for Northland	1

Additional Items

Recommendation

That the Council agrees to consider the following item of new business for the reason shown:

OPEN MEETING

- 1 UPDATE ON OFFICIAL INFORMATION REQUEST – MCKINLAY DOUGLAS REPORT ON LOCAL GOVERNMENT OPTIONS FOR NORTHLAND**
This report supplements the information already contained in Item 4 of the Agenda and was not available at the time the agenda was compiled.

Update on Official Information Request – McKinlay Douglas Report on Local Government Options for Northland

File D1.1

Report from the Chief Executive Ken Paterson dated 20 April 2010.

Councillors will be aware that in mid 2009, the Northland Mayoral Forum (including the Regional Council), agreed to undertake an independent investigation into possible future structures for local government in Northland that would better serve the needs of current and future generations. Tauranga based consultancy firm McKinlay Douglas Ltd (MDL) were subsequently contracted. Early in the project, the Regional Council withdrew from the process due to concerns that the outcome was not going to be truly independent. The Regional Council is on public record as saying that the outcome of the report is more about self interest and personal political agendas, rather than recommending changes that would result in improvements for Northland in terms of our future environmental, economic, social and cultural well-being.

On 8 March 2010 the Regional Council requested the three District Council's provide a range of information regarding the MDL report including all correspondence in relation to this project and all copies of the various draft reports. Both the Far North and Whangarei District Councils (WDC) responded within the 20 working days required by the Local Government Official information and Meetings Act 1987, however, a response has yet to be received from the Kaipara District Council (KDC). The Far North District Council (FNDC) has withheld the minutes of discussions regarding the MDL report and the Regional Council, held in the confidential section of their Council meeting on 3 March 2010. Documents previously supplied to the Regional Council indicate that other documents have also been withheld by FNDC. The underlying reasons for this are unknown.

The Regional Council agrees with the comments made by the District Councils about the need to improve services to the public. It should be noted however, that the "1-stop-shop" approach does not require a reorganisation of local government – only the will to work together for the benefit of ratepayers. This "shared services" concept has been promoted by the Regional Council for some time and has many practical examples already happening – but there is always more room for improvement.

Another feature of the rationale being promoted around the McKinlay Douglas Report is based on the premise that change is coming, and that Northland should take control of its own destiny. Local Government Minister Rodney Hide is on record as stating (as recently as 15 April) that "the government has no intention of rolling out further reforms". In addition, early correspondence from MDL states that any reorganisation proposals are unlikely to be supported by the Local Government Commission at this time. It is therefore not unreasonable to ask why considerable ratepayer funds continue to be expended on this proposal at this time. It is expected that the District Councils will run a poll at the Triennial Election on 9 October 2010, where at least 10% of the ratepayers from each district will need to support the proposed changes before the Local Government Commission will become involved in any reorganisation proposal process.

Attached is a brief report outlining points of interest from the material provided by the Far North and Whangarei District Councils. Copies of relevant documents are included as appendices to this report. General observations concerning the process

that the District Councils have followed in regard to making recommendations on future local government options for Northland are as follows:

- The Final MDL (public) Report recommends either a single unitary authority or two unitary authorities – one based on the current Far North District boundaries and one combining the Whangarei and Kaipara districts;
- Earlier drafts (private) presented by MDL to the District Councils, state two unitary authorities as the “least favoured” option, and recommends a single unitary structure as “superior” and having “much more to offer Northland”. The enhanced status quo option was commented on as being “workable”;
- Public consultation documents prepared separately by both FNDC and WDC and recently circulated in conjunction with more public meetings, both state the two unitary authority option as the preferred option for both FNDC and WDC;
- At this stage, KDC have withdrawn from the process – presumably because they do not see the benefits of being absorbed into the Whangarei District;
- Report author Peter McKinlay states on several occasions that a Far North unitary council is likely to be not financially viable. Especially in the absence of any financial analysis or feasibility study, it is unclear why this option is still considered to be the preferred option by both FNDC and WDC;
- No financial analysis was included in the report regarding the likely costs and benefits of the various options considered. However, FNDC claims that the two unitary authority option will be cheaper and WDC claim it will be “cost neutral”. The MDL report states that globally, reorganisations are never cheaper, but likely will deliver different services, so it is impossible to make any claims comparing the costs to ratepayers before and after such changes. Transition costs (not quantified) would be additional;
- Peter McKinlay comments on the expected increased costs of multiple unitary authorities with duplicate regional plans being prepared and the impracticability of trying to manage separately what are currently regional functions, such as maritime functions;
- Peter McKinlay comments that he received “strong signals” that much of central government would have practical difficulties in dealing with two unitary authorities rather than one (their preferred option); and
- Comments by Peter McKinlay regarding politicians is very unfavourable claiming that many had not read the reports and/or did not understand them before stating their preferred option for two unitary authorities.

The Regional Council is also on public record as saying that it is not opposed to change, even if this change spells the end of this Council in its current form. Any reorganisation process should be focused on what is best for Northland – ideally to unite and harness the full potential of the region – not to divide it at the ratepayers' expense. After the appropriate financial analysis and due diligence, if it can be demonstrated that that Northland will be better placed to thrive and grow under a different structure of local government, then the Regional Council will support change.

Due to the lack of appropriate information and the magnitude of the apparent discrepancies between early draft reports and advice, and the material currently being circulated in the public arena, a variety of recommendations have been provided for Councillors to consider their next course of action.

The matter is now set down for discussion.

Recommendation

1. That the report from the Chief Executive dated 20 April 2010 be received.
2. That the Regional Council make a complaint to the relevant Ombudsman regarding the Far North District Council's decision to withhold information requested under the Local Government Official Information and Meetings Act 1987; and/or
3. That the Regional Council write to the District Councils expressing their areas of concern; and/or
4. That the Regional Council write to the Office of the Auditor General and/or Minister of Local Government requesting an opinion on the appropriateness of the process followed to date; and/or
5. That the Regional Council compile a communications document to ensure that the public are aware of all the relevant facts and the Regional Council's perspective on the material being distributed by the District Councils and the process followed to date ahead of any future poll; and/or
6. Some other approach as recommended by the Council.

COMPLIANCE WITH DECISION MAKING PROCESS

The receiving of this report is provided for in the Council's 2009-2019 Long Term Council Community Plan, and as such is in accordance with the Council's decision making process and sections 76-82 of the Local Government Act 2002.

OFFICIAL INFORMATION REQUEST TO WHANGAREI DISTRICT COUNCIL McKinlay Douglas Report on Local Government Options for Northland

Points of interest from material provided by the Whangarei District Council (WDC)

1. Email from Peter McKinlay (PMc) to WDC dated 4/9/09.

PMc admits that reforms will **cost more** and in response to District Council claims that they are seeking improved efficiency and effectiveness – says that politicians are:

"often less likely to want to hear good evidenced based advice and prefer to impose their own prejudices".

Notes from a workshop with WDC Councillors on 14/9/09 state that WDC wants multiple unitary authorities (UAs) and specifically rules out a single authority as:

"not feasible – Northland is too stretched out geographically. – Northland isn't 'one government' ".

Observations

Openly stating a preference for a particular outcome of the study raises serious questions about whether the McKinlay Douglas Ltd (MDL) report is truly 'independent' as claimed. These statements also give weight to the idea that the outcome may be pre-determined.

The decision as to what structure is best for Northland should be made by the public as a result of consultation after being provided with the full range of facts (including financial analysis and feasibility studies). Such an important decision should not be made early in the process by Councils based on their own self-interest and personal agendas.

2. Email from PMc to WDC 23/9/09 questions whether a Far North unitary would be financially viable. (Included as appendix 1).

He comments that NRC probably spends **more** in the Far North than it takes in rates and acknowledges that a Far North unitary would require a duplicate RPS and duplicate Regional Plans – further increasing costs in Far North. McKinlay notes that neither the report nor his comments about the Far North's financial viability include **transition costs** – which would further increase the costs required to go the unitary way.

Observations:

The reports findings that reorganisation would cost Far North ratepayers more and would likely **not be financially viable**, are **contrary** to claims by FNDC that it will cost less and provide more effective governance for the district.

3. Email from PMc to WDC 14/10/09 that has the first draft of the MDL report as an attachment. (Included as appendix 2).

PMc states that the **report omits large areas of concern** and gives the example of Port Company assets and comments that the District Councils are very keen to get hold of Regional Council cash. He describes various possible means of distributing the Port Company assets amongst the District Councils including by volume of trade – which would significantly advantage Whāngārei and leave little for the Far North –

further exacerbating concerns of financial viability of a Far North unitary. In addition to Port issues, Peter McKinlay states harbours and navigation control as another area where *"two separate entities each doing their own thing"* would not benefit Northland.

Peter McKinlay states that the District Councils are *"unlikely to get a reorganisation scheme approved"*. This begs the question why they have continued (if not purely for self-serving purposes) and why District Councils have since expended considerable amounts or ratepayer funding in doing so.

McKinlay favours a single unitary authority for the obvious reason of the need for a strong Northland voice and regional approach. He goes on to say his **least favoured option is two unitary authorities**, which is ironically what FNDC and WDC are continuing to promote. He notes that the two unitary option would be good for Whāngārei but would *"leave the Far North really hanging on a limb"*.

McKinlay then states that the "enhanced status quo" is a "potentially workable option", but notes that the real problem is *"whether any of the politicians have the vision to deliver. Again, this is really a matter of getting them focused on the world we are moving into rather than the world from which we have come"*.

Observations:

The contents of this email calls into question the District Councils continued promotion of two unitary authorities. The MDL report has been promoted as costing \$90,000 – how much extra has been added to this cost by the week-long McKinlay roadshows, the Far North document printed and distributed to each household, the WDC document printed and distributed via the Leader and the additional two weeks of public meetings currently being undertaken by FNDC and WDC. There will then be the costs of the hearings and the poll no doubt to be included as part of the Triennial election in October.

4. The "Final Draft for Councils' Feedback" dated November 2009 was provided to WDC 20/1/10. This draft had a "preliminary comment" section (included as appendix 3 - marked as track changes) before the Executive Summary in the beginning of the report. The concluding paragraphs state:

*"We have received **strong signals** that much of central government would face practical difficulties in dealing with two UA's rather than one.*

The future financial and other viability of the resultant structures. Specifically, is the self-sufficient (meaning 2 x UA) option sustainable in the long term for the Far North District?"

Observations:

Even when provided with such strong advice against multiple UAs, WDC and FNDC have continued to promote the 2 UA structure as their preferred option. For change to provide real benefits to Northland, surely any new structure must assist Northland's dialogue with Central Government Agencies and be financially viable?

5. Further to this Draft, MDL then provided a "Final Draft for Council Feedback" dated 25 November 2009. The "preliminary comment" section referred to above has been removed.

In the "Our Assessment" section on pages 84 -85 (included as appendix 4), MDL concluded that *"a single unitary authority is **superior to the two unitary authority**"*. It goes on to state in the final paragraph *"MDL concluded that the single unitary*

authority option has much more to offer than either the two unitary authority option or the enhanced status quo".

However, following consultation with the District Councils and before the report was made public, in the Final Draft dated February 2010 (included as appendix 5), these recommendations have been **removed and replaced with:**

"The single unitary authority is technically and administratively much more straight forward".

It goes on to say *"on the other hand, the two unitary authority option may be seen as better reflecting communities of interest; and mitigating the potential risk that local government could become increasingly Whāngārei-centric".*

The section also comments on the difficulties that two Unitary Authorities are likely to experience in dealing with central government, in securing agreement on regional matters, and *how "best to manage and distribute wealth currently held at a regional level"*, ie. How to distribute Regional Council assets between WDC and FNDC.

Observations:

These majorly different final assessments between MDL's "Final Draft for Council Feedback" and the "Final Draft for Public Feedback" highlight that the Regional Council's and Kaipara District Council's decision to withdraw and distance themselves from the project due to unease about its true independence, may have been well founded.

Added to the previous evidence of District Councils having a clear desired outcome for multiple Unitary Authorities from the beginning of the process, the dramatic changes to the final report described above does little to give any confidence that the MDL report is truly an independent, objective and unbiased assessment of what would be best for Northland.

Both WDC and FNDC continue to promote the two Unitary Authority option clearly because it suits their own personal and political agendas rather than what would benefit Northland most. This assertion is backed up by PMc's own advice.

6. In an email from PMc dated 15/3/10, it is with considerable concern that he states:

"It is obvious that few if any politicians had read the draft report. It was also clear that a number had not really got their heads around what was being proposed".

McKinlay then suggested engaging (at no doubt considerable additional expense) an "expert strategic communicator" to sell the report – noting the risks of allowing politicians who don't understand the context, to do this in an election year.

Observation:

WDC and FNDC appear to have not only ignored the MDL recommendation of a single unitary authority as "superior" and "providing the most benefit to Northland", but have done so **without understanding the issues** at hand. This gives further credence to a pre-determined outcome designed on the basis of self-interest and gives little confidence in their actual ability to take on the complexity and expanded responsibility of Regional Council functions.

OFFICIAL INFORMATION REQUEST TO FAR NORTH DISTRICT COUNCIL McKinlay Douglas Report on Local Government Options for Northland

Points of interest from material provided by the Far North District Council (FNDC)

In response to the Official information request, FNDC Chief Executive David Edmunds attached a covering letter drawing attention to the fact that some minutes from the confidential section of the Council meeting of 3 March 2010 had been withheld. The reason given was that their release may "prejudice negotiations". Mr Edmunds advised the Regional Council of their right to complain to the Ombudsman, and provided contact details.

Unconfirmed minutes from the confidential part of this meeting were included in the material provided by FNDC. It is assumed that there was additional discussion not reflected in these minutes. Comments that were recorded and provided to the Regional Council include claims that:

"Some Councillors noted that some of the environmental performance standards imposed by NRC appear to be excessive when compared to other Regional Councils in NZ and these high standards incur substantial costs to FNDC"; and

"Some Councillors noted that there were concerns regarding regional ratepayer support for significant projects managed by NRC".

The above FNDC concerns were profiled in the public document distributed by FNDC entitled "Putting the Local back in Local Government". The Regional Council's response to these various claims has been included in the Draft NRC Submission included in the agenda of this meeting.

It should be noted that at least one email already provided to the Regional Council within the scope of the information requested from FNDC was not provided in response to the Official Information Request (included as appendix 6).

1. Email from Stacey Manuel on behalf of David Edmunds dated 19 March 2010.
Subject: Local Government Structures Discussion Document.
(included as appendix 6)

This email refers to the confidential section of the FNDC Council meeting of 3 March 2010. It refers to FNDC managers reviewing directions given by Councillors at the 3 March meeting and relaying concerns that some comments may result in defamatory legal action being taken by NRC. It recommended adopting a more neutral tone and providing unbiased and objective information.

Observations:

Given that the information has been withheld it is difficult to comment accurately, although generally defamatory action is not successful unless the claims being made by one party against another are untrue. The Regional Council will consider whether to complain to the Ombudsman about information withheld by FNDC.

What other information has FNDC failed to supply?

2. Email from Peter McKinlay (PMc) to FNDC CEO David Edmunds dated 25/1/10.
Subject: Northland Report. (included as appendix 7).

PMc acknowledges that his company is:

“very focused on your Council’s emphasis that the report should reflect the concerns it (being FNDC) has about the performance of the Regional Council”.

Observations:

In an effort to discredit the Regional Council, FNDC appear to have tried to make extraneous links between such diverse topics as river management and building refurbishment. The examples being scoped in this email are untrue or presented in a very misleading manner. Any claims actually made in the FNDC public document concerning the Regional Council have been responded to in NRC’s submission included in this Council meetings agenda.

3. Email from David Edmunds to WDC dated 26/1/2010.

Subject: WDC comments on MDL Draft FINAL (2).doc

David Edmunds comments that separate to this email, he will be sending *“additional examples of the fundamentally dumb decisions we are getting from NRC which are impacting TA’s in terms of being unnecessary, unwarranted and unaffordable in terms of consents etc”*

Observations:

In general terms, NRC decision are made within the requirements of its various regional plans such as the RPS and other regional plans. All district Councils including FNDC were involved in the writing of and have approved these plans.

Any specific claims made by FNDC (eg.the incorrect claim that NRC is going to make FNDC pay \$1M for resource consent for the Kerikeri sewerage system), have been addressed in the NRC submission.

Comments of this nature highlight the existence a strong “hidden agenda” which appears to be more anti-NRC than about what changes to local government would improve the current and future well-being of Northlanders. These comments seriously question the motivation behind FNDC’s stance and the credibility of their intentions to assume regional council roles and responsibilities.

**OFFICIAL INFORMATION REQUEST TO KAIPARA DISTRICT COUNCIL
McKinlay Douglas Report on Local Government Options for Northland**


**Points of interest from material provided by the Kaipara District Council
(FNDC)**

As at the time of writing, Kaipara District Council has not replied to the Regional Council’s request under the Official Information Act.



APPENDICES

1. Email from Peter McKinlay to Paul Dell (WDC) on 23/9/2009.
Subject: Miscellaneous thoughts etc.
2. Email from Peter McKinlay to Paul Dell (WDC) dated 14/10/2009
Subject: Northland Report
3. "Preliminary Comment" section of the first "Draft for Councils' Feedback"
Report dated November 2009
4. "Our assessment" section – pages 84-85 of the "Final Draft for Council's
Feedback" dated 25 November 2009.
5. "Our assessment" section – pages 90-91 of "Final Draft" dated February
2010.
6. Email from Stacey Manuel on behalf of David Edmunds dated 19/3/2010.
Subject: Local Government Structures Discussion Document.
7. Email from Peter McKinlay to David Edmunds dated 25/1/2010.
Subject: Northland Report.

Message

From: Peter McKinlay Sent: 23/09/2009 3:06:25 p.m. 

To: Paul Dell

Attachments:  ganui Ruapehu preliminary report.pdf (508Kb)  resource management plan quality and governance.pdf (648Kb)

Subject: miscellaneous thoughts etc

Greetings Paul

A few further thoughts, comments, and occasionally request for feedback

1. **Funding/viability.** Under the two UA model an obvious concern will be whether a far north unitary authority would be financially viable. When I met with their councillors, one of them produced an extract from the Northland regional council's LTCCP setting out the rates raised within each district, and arguing that the NRC spend within the far north was significantly less than the rate take. I'm a bit sceptical about that. The actual extract was page 29 of volume 2 of the LTCCP. The broad expenditure details are set out at page 41. Running an eye down those, especially ones like land management and pest control, my guess is that the regional council is probably spending more in the far north than it is raising by way of rate take. I also expect that the additional costs of operating a regional policy statement and set of regional plans specific to the far north could turn out to be quite burdensome - my crude starting point is that if you've got two sets of regional plans rather than one then you have probably got approximately double the costs (although there would obviously be some savings because you're covering a somewhat less extensive area) . When you add in the possibility of the current practice of spreading development contributions across the district being found to be beyond the council's powers, some hard questions need to be asked about whether the Far North would be viable under a separate structure. It's important also not to forget the transition costs. These sorts of issues were worked through last year to some extent when the Wanganui and Ruapehu district councils did some scoping work on the concept of becoming unitary authorities. In case you haven't seen it attached is the report.
2. **Regional economic development.** Pages 128-130 of volume one of the LTCCP set out a very fulsome approach to regional economic development. From what we have picked up, it may not entirely connect with reality. Would be interested in your comments.
3. **Ngati Whatua.** I have spoken with Allan Pivac. He is with his chairman over the next couple of days and will try to set up a time for me to meet with them. I have offered them one, two, five and the morning of six October as possibilities in Whangarei.
4. **Council controlled organisation.** Have been reflecting a bit more on how best to manage the possibility of disagreement if there is more than one council involved. If the cco is established as a company, then its constitution can include quite detailed requirements covering matters such as how the board is constituted, capabilities which directors should have and the selection/appointment process and these could be entrenched by a provision requiring a supermajority to amend the relevant clauses in the Constitution - this means that if you had two councils each owning 50%, a requirement for a (say) 75% vote to change the entrenched clauses would require both councils to support any change. The more difficult issue is settling the statement of intent but even large parts of that could be dealt with under the Constitution of the company by setting up the principles which the directors should apply when preparing the statement of intent (and as you know it is the directors not the council who are responsible for its preparation). Provisions of that kind could be supplemented by a memorandum of understanding between the two councils setting out how they would exercise their roles as owners and their expectations of the cco - would it


be expected, for example, to charge for services on a commercial basis and return a normal profit? Would there be any circumstances in which it was expected to cross subsidise? This is probably quite important because there are bound to be implicit cross subsidies at the moment. A separate issue is whether you would in fact get into CCTO territory and thus be taxable. This is something that will require professional advice at a later stage but my starting point would be that what would amount to a major professional consultancy should have a focus on generating a normal profit in the sense of a surplus on operations. There are some tricky legal issues around whether this necessarily means that the entity is carrying on business for the purpose of making a profit. You might conclude that it was carrying on business with the purpose of ensuring the delivery of effective professional services across the far north and that the purpose of generating a surplus was simply to underpin its capability, with the surplus being retained, and not applied to the benefit of the councils outside the CCTO scope.

5. Dargaville. Am continuing to think about what should happen with Dargaville/Kaipara given the apparent resistance to the idea of being part of a Whangarei UA (slightly less of an issue if you're looking at a single UA.) The alternative is almost certainly being part of the Auckland Council - it's very hard to see how you could justify Kaipara being a separate UA in its own right even if it were able to purchase in services from elsewhere - questions of financial viability etc would also need to be taken into account as would the overarching capability of the council to discharge the more complex role. Doing the reality check, a merger with Auckland would in practice see the Kaipara becoming part of a local board - assume that the localgovt commission does create somewhere between 20 and 30 local boards in line with the government's preference. That's an average population of between 46,000 and 70,000. No way is the Kaipara going to become its own separate local board. Instead it is going to be the minority part of a northern Auckland Council local board - rural Rodney- with an ongoing lack of clarity about how much influence it actually has given the discretions which the Auckland Council will have to determine where decisions are taken how services are delivered the size of the local budget etc (and if anyone raises the thought that Kaipara could be constituted as a community board by the Auckland Council, even though that might be technically possible, forget it). I suspect that once people in Kaipara look at that reality, Whangarei will end up seeming to be the lesser of two evils.
6. NRC's planning performance. I assume you are familiar with the Waikato University/Lincoln Planning Under a Cooperative Mandate project. The attached report is an interesting assessment of the planning performance of NRC - and Far north. Whangarei does not seem to be part of this particular study. You will find the tables on pages 14 and 15 fascinating, especially when you read the explanation in the text.


Regards

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Message

From: Peter_McKinlay Sent: 14/10/2009 10:06:21 p.m. 

To: Paul Dell

Attachments:  Report draft as at 14 Oct.doc (405Kb)

Subject: Northland report

Greetings Paul

Attached is a first discussion draft of the Northland report. It is still without two items which we will complete, once we have worked through your response (I anticipate a lot of talking and e-mails and possibly getting together face-to-face). They are the executive summary and our assessment of the three options.

It's been a fascinating exercise intellectually. Normally consideration of the restructuring of local government takes what is very much a top-down approach - it is basically about "we have got this thing called a council, how do we reshape it?"

We have taken the quite different approach of what is needed to provide 'fit for purpose' localgovt for Northland. It's an approach which looks at community needs, opportunities and the functions which you would want localgovt to be involved with - and largely reflects the presentation which I gave to elected members at the beginning of the project.

What it does mean is that apparently large areas of concern have been more or less omitted. This includes things like funding and how to handle assets, including the port company assets (everybody seems to get their nickers in a twist over how to get at all of this cash. If I was in Northland, I would be much more excited about the value in the lines companies). If you're taking a 'fit for purpose' approach then these are actually secondary issues even although in practice they are likely to be very much the harder issues to resolve. For the port company assets, you would probably go back to what Brian Elwood did in cases such as and Tauranga which he described as generally allocating "the shares in the port companies to those regional councils from whose regions members were elected to the relevant harbour board and in accordance with a formula having regard to that membership". The theory was that shares should go back in proportion to where trade was generated - those that generated the revenue got the assets. That approach, however, might be found wanting in Northland because of the volume of trade associated with the refinery. You might instead go for a population basis. Another port related matter which I have not covered, which might be sensitive, is harbours and navigation control. That's probably another one where you would want a jointly owned entity, rather than two separate authorities each doing their own thing.

Although I have not expressed a preference in the assessment - partly because I think this genuinely does need to wait on discussion around the different options and how they might work - I do have some preliminary views. The first is purely pragmatic. You're very unlikely to get a reorganisation scheme approved, and the prospects of legislation are also relatively unattractive mainly because it puts the agenda outside your control into the hands of central government.

The next is a bit more principled. It does need to be a strong Northland voice, and it has to have the appearance (and reality) of credibility. That tends to produce a bias in favour of a single unitary authority (note that my description of its structure and the way in which it would deliver services etc would make it distinctly different from the present regional Council). I do have some

reservations including the problems associated with a monopoly provider of localgovt services.

The two unitary councils option is probably my least favoured one. It's good for Whangarei probably but could leave the Far North really hanging on a limb. It may be a viable authority around the but the question marks elsewhere are serious. The real dilemma is how you get the taxpayer seriously on board which is likely to be the only long-term solution - and could possibly be got towards through the various initiatives around better targeting of central government funding. Indeed it may be quite difficult for central government, for example, to implement anything substantive out of the whanau ora initiative if it doesn't take into account the physical conditions in which many of Northland's Maori live, work and access services.

The enhanced status quo is a potentially workable option in the sense that the structures and related arrangements would do a lot to address current concerns but the real problem is whether any of the politicians have the vision to deliver. Again, this is really a matter of getting them focused on the world we are moving into rather than the world from which we have come.

Enjoy the read, and I look forward to your no doubt voluminous comments.

Finally, a point on formatting. We have just had someone put in a new report template in for us. This is the first use of it. There are still some teething problems. Specifically, at the moment pages are numbered by section and not for the whole report. It's a bit late at night to get her back to fix that. We will certainly do that and a lot of other improvements to formatting for the final version but in the meantime you may have an expert on your staff who can produce a version which is numbered from 1 to the end in a single flow.

Regards

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Final Draft for Councils' Feedback

- November 2005

PRELIMINARY COMMENT

Local government is an inherently complex and multifaceted activity. Its remit runs from environmental management, to economic development, infrastructure provision, arts, cultural and recreational facilities to community development public health building regulation and much more. Accordingly any review of options can very quickly get bogged down in detail, especially as most people, most of the time are interested in only one or two of the many different activities local government undertakes - but in respect of those one or two are quite likely to have passionate and strongly held views.

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Our brief was to look at four different options for the future of local government in Northland. For each option required to consider also the likely role and function of local government. In one sense this could be seen as piling complexity upon complexity.

The full report itself provides extensive discussion of the range of different activities undertaken by Northland's four Councils, and public expectations of those. It also provides extensive discussion of the changing context for local government - the reforms which gave rise to the present set of structures came out of a 1980s mindset about the nature of efficiency, and the limited role of local government. This report looks at changes since, especially in the past few years, and both within New Zealand and internationally. It concludes that the need is now for local government which is genuinely local governance working not just to deliver a core range of services, but to represent its communities in areas such as ensuring the effective targeting and delivery of central government services, attracting inward especially overseas investment, and facilitating what is now known as 'place shaping', creating the environment which will attract and retain highly skilled people.

Although the discussion in the report is extensive, its basic conclusions are straightforward:

To meet Northland's future needs, local government must be able to engage effectively with central government on a partnership basis, and with key stakeholders including inward investors. On regional level matters it must have the ability to speak with a single legitimate voice, that is, voice which genuinely reflects the interests of its diverse communities.

Maori engagement in local government as a full partner is essential (this is partly an issue of representation as of right, it is partly doing what can be done to ensure that local government boundaries are consistent with the boundaries of iwi and where appropriate hapu).

Local government in Northland needs to be significantly strengthened at two levels - regionally, and locally in the sense of the community level - the level at which most people live, work and wish to engage.

There are basically two options to choose between; a single unitary council for the whole of Northland, or two unitary councils, one combining Whangarei and Kaipara

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and the other based on the present Far North District Council. Under either option there should be a strong second tier of local councils exercising most of the powers which district councils currently hold, but designed to ensure closer and more effective community engagement (technically under the legislation as it stands at the moment these bodies would be community boards with a full range of delegations - but in reflecting on that option it is important to put aside the current and very unsatisfactory experience with existing community boards).

The choice between one or two unitary councils should be based primarily on the following two considerations:

Which option is better placed to 'speak with a single voice' in dealing with central government and key stakeholders including inward investors (we have received strong signals that much of central government would face practical difficulties in dealing with two unitary authorities rather than one).

The future financial and other viability of the resultant structures. Specifically, is the self-sufficient option sustainable in the long term for the Far North District?

EXECUTIVE SUMMARY

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INTRODUCTION AND BACKGROUND: OVERVIEW OF THE 1989 RESTRUCTURING AND THE CHANGING ROLE OF LOCAL GOVERNMENT

Brief

The brief for this report was to consider what local government structures would assist in moving Northland forward, particularly economically, what would be good for the community?

The focus is on 'fit for purpose' local government - what set of governance arrangements will best assist Northland's diverse communities realise their preferred futures?

Three options

Following the Government's decision on the northern boundary of the Auckland Council, there are in practice three broad options for Northland: an enhanced status quo; two unitary authorities (Kaipara plus Whangarei, and Far North); and a single unitary authority.

Background

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The principles point to a significant strengthening of local government in Northland in four different respects:

- Regionally, with the ability to speak and act with a single well-informed and legitimate voice in matters such as central government/local government relationships (where regional involvement in the design, targeting and delivery of social services broadly defined will be increasingly important), infrastructure development and regional economic development.
- At a local or community level, with communities given much greater power to make decisions on local government services within their areas, and more engagement with enabling the effective delivery of central government services.
- Managerially with a focus on putting in place council controlled organisations or shared services for professional and technical services in the planning and regulatory area and infrastructure planning and delivery respectively as a means of developing critical mass, ensuring quality and consistency in performance, and it is supporting the region's economic development needs (whilst not compromising the sustainable management objective).
- Relationships with tangata whenua, with Maori represented at the decision-making table, thus enhancing the opportunity to engage fully with Maori as they seek to capitalise on their economic and social potential.

OUR ASSESSMENT

We start by again making the point that the focus of this report is on what local government arrangements will best meet Northland's governance needs over the next 10-20 years.

Section 3 of this report set out what the Local Government Commission applied during the 1989 reform as the main requirements for improving local government. The focus was very much on creating larger more efficient units of local government in order to better deliver the range of services for which local government was then responsible, and within then current understandings of technology and scope of responsibility.

As Section 4 above has demonstrated, the context for local government has changed dramatically in the past 20 years. It continues to change. It now seems beyond doubt that one of the principal roles of local government over the next 10-20 years will be working with central government to ensure the more effective design, targeting and delivery of central government funded services.

It is also the case that there is a much greater demand for engagement. People want and increasingly demand the right to be part of local government's decision-making processes. It is no longer sufficient to say that they have the opportunity, once every three years, to elect their representatives. Indeed, it can almost be argued that the

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electoral process is seen as much less significant than the ability to engage with local government on those particular matters which most concern the individual or group.

Against this background MDL concludes that the two most important performance requirements for Northland's governance are the ability to work well and effectively at a regional level, and maximising the opportunity for engagement, by Northland communities, in those matters which most concern them.

Readers familiar with discussions about public sector decision-making will recognise a parallel with the principle of subsidiarity - that decisions are best taken at the lowest possible level - generally the level which encapsulates the principal impacts of the decision. It is a principle which allocates major regionwide decisions to a regional level and decisions whose impact is purely at a local level to that local level.

Each of the three options includes an emphasis on greater delegation to a community level through properly empowered community boards and, in association with those possibly also community committees and/or ward arrangements designed to provide an opportunity for engagement at a scale where that is still important, but the community is considered too small to support a full community board. The enhanced status quo option is less effective than the two others for this purpose because of complexity - the need for delegations and/or transfers of functions to come both from a parent territorial local authority and from the regional council.

At the regional level the single unitary authority is superior to the two unitary authority option again because of complexity. It will be clear from the discussion in earlier parts of this report that there are significant complexities in enabling a single authoritative and legitimate regional voice if two unitary authorities are involved because of the need for additional structures, and the ongoing requirement to secure agreement between two councils on virtually every major issue which would need to be dealt with at a regional level.

MDL concludes that the single unitary authority option has much more to offer than either the two unitary authority option or the enhanced status quo. In making this judgement we again emphasise that the use of properly empowered community boards should ensure not only that local decision-making remains local, but that there is a much enhanced opportunity for communities to have input to regional level policy decisions, especially in environmental management and monitoring.

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The principles point to a significant strengthening of local government in Northland in four different respects:

- Regionally, with the ability to speak and act with a single well-informed and legitimate voice in matters such as central government/local government relationships (where regional involvement in determining the policies and practices for the design, targeting and delivery of social services broadly defined will be increasingly important), infrastructure development and regional economic development.
- At a local or community level, with communities given much greater power to make decisions on local government services within their areas, and more engagement with enabling the effective delivery of central government services.
- Managerially with a focus on putting in place council controlled organisations or shared services for professional and technical services in the planning and regulatory area and infrastructure planning and delivery respectively as a means of developing critical mass, ensuring quality and consistency in performance, and in supporting the region's economic development needs (whilst not compromising the sustainable management objective).
- Relationships with tangata whenua, with Maori represented at the decision-making table, thus enhancing the opportunity to engage fully with Maori as they seek to capitalise on their economic and social potential.

OUR ASSESSMENT

We start by again making the point that the focus of this report is on what local government arrangements will best meet Northland's governance needs over the next 10-20 years.

Section 3 of this report set out what the Local Government Commission applied during the 1989 reform as the main requirements for improving local government. The focus was very much on creating larger more efficient units of local government in order to better deliver the range of services for which local government was then responsible, and within then current understandings of technology and scope of responsibility.

As Section 4 above has demonstrated, the context for local government has changed dramatically in the past 20 years. It continues to change. It now seems beyond doubt that one of the principal roles of local government over the next 10-20 years will be working with central government to ensure the more effective design, targeting and delivery of central government funded services.

It is also the case that there is a much greater demand for engagement. People want and increasingly demand the right to be part of local government's decision-making processes. It is no longer sufficient to say that they have the opportunity, once every three years, to elect their representatives. Indeed, it can almost be argued that the

electoral process is seen as much less significant than the ability to engage with local government on those particular matters that most concern the individual or group.

Against this background, MDL concludes that the two most important performance requirements for Northland's governance are the ability to work well and effectively at a regional level, and maximising the opportunity for engagement, by Northland communities, in those matters that most concern them.

Readers familiar with discussions about public sector decision-making will recognise a parallel with the principle of subsidiarity - that decisions are best taken at the lowest possible level - generally the level which encapsulates the principal impacts of the decision. It is a principle which allocates major regionwide decisions to a regional level and decisions whose impact is purely at a local level to that local level.

Each of the three options includes an emphasis on greater delegation to a community level through properly empowered community boards (or alternative means for achieving the same degree of engagement) and, in association with those possibly also community committees and/or ward arrangements designed to provide an opportunity for engagement at a scale where that is still important, but the community is considered too small to support a full community board. The enhanced status quo option is less effective than the two others for this purpose because of complexity - the need for delegations and/or transfers of functions to come both from a parent territorial local authority and from the regional council.

In MDL's view the choice for Northland's communities is between the single unitary authority and the two unitary authorities options.

The single unitary authority option is technically and administratively much more straightforward. It does not require the mix of joint committees and memoranda of understanding needed to underpin the two unitary authorities option. Nor does it present central government agencies, most of whom have regional boundaries which cover the whole of Northland, with the need to deal with two separate governance structures in order to collaborate with local government in setting the policies and strategies for the more effective delivery of central government services within Northland.

The single unitary authority option also avoids the ongoing dependence on securing agreement between two separate unitaries for the various 'whole of Northland' matters which have been identified in this report, including how best to manage and distribute wealth currently held at the regional level.

On the other hand, the two unitary authority option may be seen as better reflecting communities of interest, and mitigating the potential risk that local government could become increasingly Whangarei-centric.

It could also be seen as a means of providing a better focus on the very specific needs of the Far North, especially in terms of lifting the socio-economic status of much of the north and west of the district.

FYI.

From: Stacey Manuel [mailto:Stacey.Manuel@fndc.govt.nz] **On Behalf Of** David Edmunds

Sent: Friday, 19 March 2010 5:02 p.m.

To: Ann Court; Colin Kitchen; Dennis Bowman; Di Maxwell; Ian Bamber; Laurie Byers; sally; Steve McNally; Tom Baker; Wayne Brown; (craig@briedeck.co.nz); Florence Annison; Gray Phillips; Paul Gorringer; Stephen Timings; Emma Davis; Hiku Cherrington; project@maxnet.co.nz; Tracy Dalton; Win Stephens; David Senior; Fiona King; Lawrie Atkinson; Phil Cross; Willie van der Sluis

Subject: Local Government Structures Discussion Document

Importance: High

The draft discussion document on the unitary authority proposal, which was forwarded to Councillors last week, was primarily written based on the direction given by Councillors at the extra-ordinary meeting of 3 March.

Upon consideration of the draft document by management, concern was raised as to whether some of the comments may in fact result in some defamatory legal action being taken by NRC. After further investigation it was considered that we should in fact write a more neutral document to ensure that we fully meet the test of correct consultation under the Local Government Act (LGA 2002 Section 51) and avoid any potential redress by NRC, whilst at the same time providing the communities of Northland with **unbiased** and objective information. The amended / final document is attached to this email.

Whangarei District Council are running a similar consultation to our own on the unitary council issue and they too have adopted a more neutral tone. They also list five options in their submission form and we have amended the FNDC submission form to bring the questions in line with the five options list by Whangarei.

The final document is currently being printed and is due to be posted out across the district in the latter part of next week.

The submission period will run until 30 April.

The mayor has proposed that he and council will lead the meetings in the three main towns on 14, 15, 20 April, whilst the three meetings on 21 April will be led by ward councillors supported by community board chairs and deputy chairs.

David Edmunds

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Appendix 7

David Edmunds

From: Peter McKinlay [peter@mdl.co.nz]
Sent: Monday, 25 January 2010 2:15 p.m.
To: David Edmunds
Subject: Northland Report

Greetings Dave

A quick follow-up from our discussion last Thursday afternoon. We are very focused on your council's emphasis that the report should reflect the concerns it has about the performance of the Regional Council. At the same time, as we sought to highlight in our discussion, we need to ensure that the report is proofed against what I would describe as the 'soundbite' challenge. This means that any examples we use need to be robust against any suggestion that we didn't know what we were talking about, or simply repeated misleading anecdotes from people opposed to the regional council.

The point to keep in mind is not so much whether the anecdotes are correct or otherwise (although that certainly matters to us) as to ensure the way that any concerns are expressed can't simply be dismissed by a flip comment. That's my real worry about the example of the relative expenditure on rivers control as compared with building refurbishment. It's just too easy for the regional council to say that this was simply part of a planned relocation which may have had a positive impact on the regional council's balance sheet - it's the kind of thing that would be very easy for the media to pick up and impossible to deal with my argument through the media so that, regardless of whether it is correct or not, the report's credibility would go - which is the exact opposite of what you want on this particular issue.

It would be very helpful to have two or three case studies (as originally discussed when I first met with your staff) which are robust against that kind of dismissal. The Taipa waste water treatment plant may be one possibility. Rivers control at Kaeo may be another. I have a note that one of the issues here is the regional council declining permission for the district council and local contractors to continue extracting gravel from the river. My note suggests that approximately 10,000 m³ a year were being taken from the river bed, that permission to do so was withdrawn 10 years ago, and nothing has been done since to mitigate the impact of the buildup. Are you able to provide me with some documented examples of this type?

Regards

Peter McKinlay
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