

Report No:	RCN12-02-02
File No:	
Date:	15 February 2012
Decision Required	

REPORT SUMMARY

Report to: Full Council
Meeting Date: 23 February 2012
Report Author: Dennis Bush-King, Acting Chief Executive Officer
Subject: **Advertising expenditure limits during polling period for the proposal to amalgamate Tasman District/Nelson City**

EXECUTIVE SUMMARY

The Local Government Act 2002 requires Council, within 20 working days of the public notice of the reorganisation scheme for the union of Tasman District and Nelson City, to decide how much money it proposes to spend on advertising that promotes or opposes the proposal, prior to the polls on the reorganisation scheme.

This report outlines the pros and cons of the options on whether Council should spend funds on promoting or opposing the reorganisation scheme, recommends that Council does not spend funds on promoting or opposing the reorganisation scheme, but recommends that Council agrees to encourage people to vote in the polls and to provide factual information to the community.

RECOMMENDATION/S

That the Council receives this report and decides not to spend money on advertising that promotes or opposes the reorganisation scheme for the amalgamation of Tasman District and Nelson City, but agrees to encourage people to vote in the polls and providing them with factual information on the content of the reorganisation scheme.

DRAFT RESOLUTION

THAT the Tasman District Council:

- 1. Receives the report on Advertising expenditure limits during polling period for the proposal to amalgamate Tasman District/Nelson City – RCN12-02-02 and;**
- 2. Agrees not to spend money on advertising that promotes or opposes the reorganisation scheme for the union of Tasman District and Nelson City; and**
- 3. Agrees to encourage people to vote in the polls on the reorganisation scheme and to provide people with factual information on the content of the reorganisation scheme, in a manner that would not influence the way people vote or that would promote or oppose the reorganisation scheme.**

Report No:	RCN12-02-02
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Report to: Full Council
Meeting Date: 16 February 2012
Report Author: Dennis Bush-King, Acting Chief Executive Officer
Subject: **Advertising expenditure limits during polling period for the proposal to amalgamate Tasman District/Nelson City**

1. Purpose

1.1 The purpose of this report is to seek a decision from Council on whether or not it wants to spend funds on advertising during the polling period for the proposal to amalgamate Tasman District and Nelson City, or if it wants to encourage people to vote and provide factual information to voters.

2. Background

2.1 On the 31 January 2012 the Local Government Commission released its decision to proceed to a final reorganisation scheme for the proposal for the union of Tasman District and Nelson City.

2.2 The next step in the process is for a poll to be held in each district. The union proposal needs to get more than 50 percent of the valid votes in the poll, in Tasman and in Nelson, to proceed (note it is more than 50 percent of the people who validly vote, not 50 percent of the total number of eligible voters in the district). If the result of the poll is that more 50 percent of valid votes cast in both districts support the proposal then the amalgamation must proceed. However, if the proposal fails to receive support from more than 50 percent of the valid votes cast in one or both districts then the amalgamation does not proceed.

2.3 Essentially it means that even if only 10 or 20 percent of people turn out to vote, they will determine the future governance of the Nelson-Tasman area.

3. Key Aspects of the Reorganisation Scheme

3.1 The key aspects of the reorganisation scheme are:

- One unitary Council (called the Nelson Tasman District Council) covering Tasman and Nelson, based on the current boundaries of the two districts.

- 1 Mayor and 16 Councillors.
- 1 member from Golden Bay, 1 from Lakes/Murchison, 2 from Motueka, 2 from Moutere/Waimea, 3 from Richmond and 7 from Nelson.
- There will be 8 wards established across the new district
- There will be 2 community boards (Golden Bay, Motueka) which are required to remain in place for a period of not less than 3 years with encouragement to extend to other parts of the District.
- A Maori Board and Rural Advisory Committee have been proposed and are to remain in place for a period of not less than 3 years
- The headquarters will be in Richmond, with offices in Nelson, Takaka, Motueka, and Murchison.
- Rating will, in the 2015 Long Term Plan be based on capital value.
- Transitional arrangements are to be dealt with by a transition Committee and Transition Manager
- The election for the new Council will be held on 13 October 2012. The subsequent election will be 2016.

3.2 Copies of the Commission's report and the reorganisation scheme are available on its website: www.lgc.govt.nz (go into the "current proposals" section).

4. Matters to be Considered

Legislative Matters

- 4.1 Clause 55 of Schedule 3 of the local Government Act 2002 states that "each local authority effected by a reorganisation scheme must, in the period of 20 working days beginning with the first working day after the date on which the public notice of the reorganisation scheme is first given, determine, by resolution, the amount of money it proposes to spend on that advertising that –
- (a) promotes or opposes the implementation of that scheme or any provision of that scheme; and
 - (b) is to be published, broadcast, issued, distributed, or displayed in the poll period."

(Note: the "poll period" started on the day after the date on which the public notice of the reorganisation scheme was given and finishes at the end of the day on which the poll is held. Public notice was given on 2 February 2012.)

- 4.2 The Clause goes on to say that a territorial authority with a population not exceeding 50,000 may spend up to \$10,000 on advertising to promote or oppose the poll.

- 4.3 Clause 56 of the Act states that a council affected by a reorganisation scheme must meet the costs incurred by the representative of the electors in publishing, broadcasting, issuing, distributing or displaying, in the poll period, advertising that promotes (or opposes) the implementation of the reorganisation scheme or a provision of that scheme. The maximum amount of the cost that a council must meet is an amount equal to the amount that the council determines it will spend. Council can pay the costs incurred by the representative of the electors either directly or by way of reimbursement.
- 4.4 Clause 57 of the Act states that if a poll is held in the district of the local authority, the Chief Executive of that council must, within one month after the date of that poll, make a return to the Auditor General that specifies –
- (a) all advertising that –
 - i) promote or oppose the implementation of the reorganisation scheme or a provision of that scheme; and
 - ii) was published, broadcast, issued, distributed, or displayed by the Council in the poll period or that was caused by the local authority to be published, broadcast, issued, distributed, or displayed in the poll period; and
 - (b) the cost of the advertising specified under (a) above.
- 4.5 If the Council spends more than it resolves to do, then Councillors are liable for the amount in excess of what Council resolved to spend.
- 4.6 Clause 58 of the Act says that a person must not publish, etc, advertising that promotes or opposes the implementation of the reorganisation scheme or a provision of that scheme unless that advertising contains a statement setting out the name of the person for whom or at whose direction, that advertising is made and the address of the person's place of residence or business. A “person” includes a local authority affected by reorganisation scheme.

Other matters to consider

- 4.7 When making a decision on whether to spend money on promoting or opposing the reorganisation scheme, Council needs to consider the key aspects of the scheme and whether it wants to promote or oppose the scheme in total or any particular part of the scheme. If Council decides to spend funds on promoting or opposing the scheme, then it will need to determine how much money it will spend up to the \$10,000 limit.

5. Financial/Budgetary Considerations

- 5.1 Council does not have a budget relating to amalgamation. The poll will cost Council in the order of \$90,000. This is unbudgeted expenditure.
- 5.2 Council could spend up to \$10,000 on promoting or opposing the poll. If Council decides to spend an amount of money on promoting or opposing the poll, it must make the same amount available to the representative of electors (Aldo Miccio, in this case). The cost to Council, therefore, could be up to \$20,000. This would be unbudgeted expenditure.

6. Options

- 6.1 Council has three options available to it:
- (a) Spend up to \$10,000 on promoting or opposing the poll and make the same amount available to the representative of electors.
 - (b) Spend no money on promoting or opposing the poll and as a consequence it would not need to pay any money to the representative of electors.
 - (c) Decide not to spend any money on promoting or opposing the poll but agree to encourage electors to vote and to raise awareness of the content of the reorganisation scheme.

7. Pros and Cons of Options

Option a: Spend up to \$10,000 on promoting or opposing the poll and make the same amount available to the representative of electors

- 7.1 The main advantages of this option are that Council can outline its position on the reorganisation scheme to its community, it can highlight areas of concern it has about the scheme and it can identify matters that it thinks the community should have particular regard to. Some members of the community will expect Council to take a stand on the amalgamation and to outline its views to the community on the advantages and disadvantages of the reorganisation scheme, which it will be able to do if it agrees to expend money.
- 7.2 The main disadvantage with this option is that it could cost Council up to a total of \$20,000, which is unbudgeted expenditure. A further disadvantage is that if Council spends money on promoting or opposing the poll it could be seen to be influencing the outcome of the vote.

7.3 If Council decides to spend funds on promoting or opposing the scheme, then it will need to determine how much money it will spend up to the \$10,000 limit and agree to make the same amount available to the representative of electors to cover his costs of advertising.

7.4 This option is not the preferred option.

Option b: Spend no money on promoting or opposing the poll and as a consequence it would not need to pay any money to the representative of electors

7.5 The main advantage with this option is that it will not cost Council any money. Also Council would not be seen to be influencing the outcome of the vote.

7.6 The main disadvantage of this option is that Council will not have the opportunity to outline its views and its concerns on the reorganisation scheme to the Tasman and Nelson communities. Some members of the community will be expecting Council to express its views on the reorganisation scheme and to make information available to the community.

7.7 This option is not the preferred option.

Option c: Decide not to spend any money on promoting or opposing the poll but agree to encourage electors to vote and to raise awareness of the content of the reorganisation scheme.

7.8 The main advantages with this option are that:

- Council would be encouraging members of the community to have their say by voting.
- Council would only spend money on encouraging people to vote, which it could do through Newline and other media Council normally uses at little extra cost.
- Council would not need to provide funding to the representative of electors.
- Council would not be seen to be influencing the outcome of the vote.
- Council could make factual information available to the public on the content of the reorganisation scheme, provided that the information could not be seen as trying to influence people or to promote or oppose the proposal.

7.9 The main disadvantages with this option are that:

- Council will need to be very careful on what information is made available to the public to ensure that it cannot in any way be seen to be promoting

or opposing the poll or trying to influence people in the way they vote, otherwise Councillors will be liable for the expenditure. To help reduce the risk of this, Council could use information provided by the Local Government Commission outlining the content of the reorganisation scheme.

- Council would not have the opportunity to outline its views and concerns on the reorganisation scheme to the Tasman and Nelson communities. Some members of the community will be expecting Council to express its views on the reorganisation scheme and to make these views known to the community.

7.10 This is the preferred option.

8. Significance

8.1 This is not a significant decision according to the Council's Significance Policy as it does not trigger the criteria or thresholds in the Policy.

9. Recommendation/s

9.1 That the Council receives this report and decides not to spend money on advertising that promotes or opposes the reorganisation scheme for the amalgamation of Tasman District and Nelson City, but agrees to encourage people to vote in the polls and providing them with factual information on the content of the reorganisation scheme.

10. Timeline/Next Steps

10.1 The polls on the reorganisation scheme are to be held 21 April 2012. Council has appointed an Electoral Officer to run the poll process for the Tasman District, at Council's expense.

10.2 The Local Government Commission has decided that, if the reorganisation scheme receives over 50 percent of the votes cast in both the polls in Tasman and Nelson, the election for the new Nelson-Tasman District Council will be held on 13 October 2012 with a commencement date of 1 November 2012.

DRAFT RESOLUTION

THAT the Tasman District Council:

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- 2. Agrees not to spend money on advertising that promotes or opposes the reorganisation scheme for the union of Tasman District and Nelson City; and**
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