



LOCAL GOVERNMENT COMMISSION *MANA KĀWANATANGA Ā ROHE*

Determination

of representation arrangements to apply for
the election of the Hauraki District Council
to be held on 12 October 2013

Background

1. All territorial authorities are required under sections 19H and 19J of the Local Electoral Act 2001 (the Act) to review their representation arrangements at least every six years. These reviews are to determine the number of councillors to be elected, the basis of election for councillors and, if this includes wards, the boundaries and names of those wards. Reviews also include whether there are to be community boards and, if so, arrangements for those boards. Representation arrangements are to be determined so as to provide fair and effective representation for individuals and communities.
2. The Hauraki District Council (the Council) last undertook a review of its representation arrangements prior to the 2007 local authority elections. Accordingly it was required to undertake a review prior to the next elections in October 2013.
3. As a result of its last review, the representation arrangements that applied for the 2007 and subsequent 2010 elections were for a council that comprised a mayor and 13 councillors elected as follows.

Wards	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Plains	6,160	4	1,540	+98	+6.80
Paeroa	5,930	4	1,483	+41	+2.84
Waihi	6,660	5	1,332	-110	-7.63
Total	18,750	13	1,442		

* These are updated 2011 population estimates.

4. Hauraki District currently has no community boards.

5. The Council commenced its review of representation arrangements by conducting a workshop on 25 January 2012. Following the workshop, the Council appointed a working party comprising the Mayor, Deputy Mayor and three ward chairs to consider and prepare a discussion paper on options for the planning and delivery of the representation arrangements review. The working party reported back in May 2012 and the Council resolved to engage focus groups from each ward to seek preliminary feedback on possible representation arrangements for the district. Feedback from the focus group programme, which involved leaders from community organisations in each ward, was reported back to the Council at a workshop in July 2012. A presentation was also made to the Mana Whenua Forum in July 2012. The Council then convened a further workshop to review the information received and representation options, and consider its preference for the Council's initial representation proposal.
6. On 15 August 2012 the Council, under sections 19H and 19J of the Act, resolved its initial proposed representation arrangements to apply for the 2013 elections. The proposal in relation to council representation was as follows.

Wards	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Plains	6,160	4	1,540	-23	-1.47
Paeroa	5,930	4	1,483	-80	-5.12
Waihi	6,660	4	1,665	+102	+6.53
Total	18,750	12	1,563		

* These are updated 2011 population estimates.

7. The initial proposal was also for no community boards to be established.
8. In notifying its proposal, the Council noted that, while Waihi Ward was the largest ward at the time of the 2006 review, the recent addition of Miranda and Kaiaua to the Plains Ward (from the former Franklin District) meant the characteristics and population of the three wards had become similar. As a result, the Council had resolved to reduce the number of members to be elected from Waihi Ward with all wards proposed to elect the same number of members.
9. The Council notified its initial proposal on 24 August 2012 and a total of 171 submissions were received by the deadline of 25 September 2012.
10. The Council summarised the submissions on the four main issues as follows:
 - wards as the basis of election: 166 in support, 4 opposed
 - the current three-ward structure: 168 in support, 2 opposed
 - ward membership (4/4/4): 140 in support, 31 opposed
 - no community boards: 167 in support, 3 opposed.
11. Following consideration of submissions, the Council on 31 October 2012 resolved to amend its initial proposal by retaining the representation arrangements that applied at the 2010 elections i.e. Waihi Ward having five members and the other two wards four members each. It also endorsed its initial proposal not to establish any community boards.

12. The Council notified its final proposal on 2 November 2012 and called for appeals or objections by 4 December 2012. Eight objections, all against the proposal to retain five members for Waihi Ward, were received.

Hearing

13. The Commission met with the Council and objectors at a hearing held in the Hauraki District Council Chambers on 8 February 2013. The appellants who appeared at the hearing were Frank Fullerton, Don Swales also on behalf of the Kaiaua Citizens and Residents Association, Ross Harris and Robin Kent. The Council was represented at the hearing by the Mayor John Tregidga and Chief Executive Langley Cavers.

Matters raised in appeals and at the hearing

14. The Mayor read a prepared statement in support of the Council's final proposal and on the review process adopted by the Council. The Mayor noted that there was a split in the voting by the Council on both the initial and final proposals with some changing back to support the status quo arrangements as the Council's final proposal. Reasons for this included some uncertainty about current population statistics and that current arrangements did comply with the fair representation requirement in the Local Electoral Act. Other factors such as area and rates paid by different wards were not relevant criteria under the Act. The Mayor noted that all eight appeals were from Plains Ward and they argued that there was now a similarity between the wards with the addition of the Kaiaua/Miranda area from the former Franklin District. However, on the other hand, Waihi Ward members were of the view that due to the significant impact of mining on the Waihi community, five members was appropriate for that ward. The Council was aware of its relatively high level of councillor representation for the district but believed the community supported this and did not want a return to community boards which had been established in 1989 and existed until the 1998 elections, as these were considered costly and ineffective. The Council considered that the district had been effectively served over the last three trienniums under existing arrangements. The Mayor said the Council had suggested that the next Council undertake a further review prior to the 2016 elections to give more time to consider the need for change and by which time new Census data would be available.
15. Frank Fullerton appeared before the Commission in support of his objection against the proposed retention of a fifth member for Waihi Ward. He outlined both his community and business interests across the district and highlighted requirements for fair and effective representation. He said each ward had its issues which need to be addressed and these presented equal work demands for the Council, this included flooding and drainage issues in Plains Ward.
16. Don Swales appeared before the Commission in support of his own objection and also that of the Kaiaua Citizen and Residents Association which he said had about twenty-five members. Mr Swales said Waihi now had only a slightly higher population than the other wards and Plains Ward was a much larger area with higher valuations. Plains Ward also had a number of distinct communities scattered over the ward. Kaiaua had brought new issues following its inclusion in the district. Mr Swales noted there were relatively few submissions on the initial proposal as most thought it was fair.

17. Ross Harris appeared before the Commission and read a prepared statement in support of his objection. Mr Harris highlighted the requirement that all members make a declaration that they will act in the interests of the district as a whole. He also referred to the current situation where, with a total of 13 councillors, there were 14 deliberative votes including the Mayor's, and this could require a casting vote to determine particular issues which, as convention suggests, should be cast in favour of the status quo. Whereas under the initial proposal, a simple majority of seven would be required to advance an issue.
18. Robin Kent appeared before the Commission in support of his objection against the Council's final proposal. Mr Kent noted the increase in area and population of Plains Ward following the addition of the Kaiaua/Miranda area and believed that the existing Plains Ward members were handling the enlarged area with ease and were not requesting increased representation. He said he believed that fair and effective representation required that there be four members for each of the three wards.

Requirements for determination

19. Statutory provisions relating to the determination of appeals and objections on territorial authority representation proposals are contained in sections 19R, 19H and 19J of the Act.
 - 19R. *Commission to determine appeals and objections***
 - (1) *The Commission must—*
 - (a) *Consider the resolutions, submissions, appeals, objections, and information forwarded to it under section 19Q; and*
 - (b) *Subject to sections 19T and 19V in the case of a territorial authority, and to sections 19U and 19V in the case of a regional council, determine,—*
 - (i) *In the case of a territorial authority that has made a resolution under section 19H, the matters specified in that section;*
 - (ii) *In the case of a regional council that has made a resolution under section 19I, the matters specified in that section;*
 - (iii) *In the case of a territorial authority that has made a resolution under section 19J, the matters specified in that section.*
 - (2) *For the purposes of making a determination under subsection (1)(b), the Commission—*
 - (a) *May make any enquiries that it considers appropriate; and*
 - (b) *May hold, but is not obliged to hold, meetings with the territorial authority or regional council or any persons who have lodged an appeal or objection and have indicated a desire to be heard by the Commission in relation to that appeal or objection.*
 - (3) *The Commission must, before 11 April in the year of a triennial general election, complete the duties it is required to carry out under subsection (1).*
 - 19H. *Review of representation arrangements for elections of territorial authorities***
 - (1) *A territorial authority must determine by resolution, and in accordance with this Part,—*
 - (a) *Whether the members of the territorial authority (other than the mayor) are proposed to be elected—*
 - (i) *By the electors of the district as a whole; or*
 - (ii) *By the electors of 2 or more wards; or*

- (iii) *In some cases by the electors of the district as a whole and in the other cases by the electors of each ward of the district; and*
 - (b) *In any case to which paragraph (a)(i) applies, the proposed number of members to be elected by the electors of the district as a whole; and*
 - (c) *In any case to which paragraph (a)(iii) applies,—*
 - (i) *The proposed number of members to be elected by the electors of the district as a whole; and*
 - (ii) *The proposed number of members to be elected by the wards of the district; and*
 - (d) *In any case to which paragraph (a)(ii) or paragraph (a)(iii) applies,—*
 - (i) *The proposed name and the proposed boundaries of each ward; and*
 - (ii) *The number of members proposed to be elected by the electors of each ward.*
- (2) *The determination required by subsection (1) must be made by a territorial authority—*
- (a) *On the first occasion, either in 2003 or in 2006; and*
 - (b) *Subsequently, at least once in every period of 6 years after the first determination.*
- (3) *This section must be read in conjunction with section 19ZH and Schedule 1A.*
- 19J. Review of community boards**
- (1) *A territorial authority must, on every occasion on which it passes a resolution under section 19H, determine by that resolution, and in accordance with this Part, not only the matters referred to in that section but also whether, in light of the principle set out in section 4(1)(a) (which relates to fair and effective representation for individuals and communities) —*
- (a) *There should be communities and community boards; and*
 - (b) *If so resolved, the nature of any community and the structure of any community board.*
- (2) *The resolution referred to in subsection (1) must, in particular, determine—*
- (a) *Whether 1 or more communities should be constituted;*
 - (b) *Whether any community should be abolished or united with another community;*
 - (c) *Whether the boundaries of a community should be altered;*
 - (d) *Whether a community should be subdivided for electoral purposes or whether it should continue to be subdivided for electoral purposes, as the case may require;*
 - (e) *Whether the boundaries of any subdivision should be altered;*
 - (f) *The number of members of any community board;*
 - (g) *The number of members of a community board who should be elected and the number of members of a community board who should be appointed;*
 - (h) *Whether the members of a community board who are proposed to be elected are to be elected—*
 - (i) *By the electors of the community as a whole; or*
 - (ii) *By the electors of 2 or more subdivisions; or*
 - (iii) *If the community comprises 2 or more whole wards, by the electors of each ward:*
 - (i) *in any case to which paragraph (h)(ii) applies, -*
 - (i) *The proposed name and the proposed boundaries of each subdivision; and*
 - (ii) *The number of members proposed to be elected by the electors of each subdivision.*
- (3) *Nothing in this section limits the provisions of section 19F.*

20. Other statutory provisions the Commission is required to consider include those set out in sections 19A, 19C, 19F, 19G, 19T and 19V and these are addressed below.

Consideration by the Commission

21. The steps in the process for achieving required fair and effective representation are not statutorily prescribed. As reflected in its '*Guidelines to assist local authorities in undertaking representation reviews*', the Commission believes that the following steps in determining representation arrangements will achieve a robust outcome that is in accordance with the statutory criteria:

- a) identify the district's communities of interest
- b) determine the best means of providing effective representation of the identified communities of interest
- c) determine fair representation for electors of the district.

Communities of interest

22. The Guidelines identify three dimensions for recognising communities of interest:

- perceptual: a sense of belonging to an area or locality
- functional: the ability to meet the community's requirements for services
- political: the ability to represent the interests and reconcile conflicts of the community.

23. The Commission considers that the case for specific representation of distinct and recognisable communities of interest should reflect these dimensions.

Effective representation of communities of interest

24. Section 19T of the Act requires the Commission to ensure that:

- the election of members of the council, in one of the ways specified in section 19H (i.e. at large, wards, or a combination of both) will provide effective representation of communities of interest within the district
- ward boundaries coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes
- so far as is practicable, ward boundaries coincide with community boundaries.

25. While not a prescribed statutory requirement, the Guidelines also suggest that local authorities consider the total number of members, or a range in the number of members, necessary to provide effective representation for the district as a whole. In other words, the total number of members should not be arrived at solely as the product of the number of members per ward.

26. Section 19A of the Act provides that a territorial authority shall consist of between 5 and 29 elected members (excluding the mayor). The Council comprised 12 elected members (excluding the mayor) when it was constituted in 1989 and for the 1992 elections, reducing to nine members for the 1995 elections. The number of members increased to 12 again for the 1998 elections when the three community boards were dis-established. The number increased to 13 in 2001 when an additional member

was added to Waihi Ward. We note that the current number of elected members for Hauraki District is within an appropriate range for councils of districts of this size.

27. The Guidelines state that decisions relating to the representation of communities of interest (the political dimension) will need to take account of the extent that distinct geographical communities of interest can be identified, i.e. a physical boundary is able to be defined below the district level for the community of interest. From its constitution in 1989, Hauraki District has been divided into the current three wards i.e. Plains, Paeroa and Waihi. This structure is well established and appears to be well supported with little if any support for change.
28. The key issue for the Commission to address, and the one raised in all eight objections, was whether effective representation of the communities of interest reflected in the ward structure required an additional member for Waihi Ward. The Council told us that the present arrangements introduced in 2001 were working well and based a lot of its arguments for a fifth member for Waihi Ward on the impact of mining on that community. It noted, for example, that a current application for further mining affected an estimated 340 to 350 residences. We acknowledge this is a significant issue for the Waihi community but it is not clear to us, despite invitations for further explanations, exactly why this translates into a need for a fifth elected member for the ward. Representation of a community's interests can take various forms and we believe it is as much about the quality or effectiveness of the mechanisms, as distinct from the number of channels. This argument can be extended to the quality of representation as distinct from the number of councillors. We note the decision to add a fifth member for Waihi Ward was taken well before the addition of the Kaiaua/Miranda area to Plains Ward and therefore the issues for that ward need to be explicitly taken into account vis-à-vis greater representation for Waihi Ward. A number of the objectors raised flooding and drainage issues as important concerns in Plains Ward for example. In summary, we were not persuaded by the arguments of the Council that there was a clear case for greater representation for Waihi Ward compared to the other two wards.
29. In the absence of such arguments, we believe it is important for councils to be seen to have equitable representation arrangements and we consider this is best provided in the case of Hauraki District by each ward having the same number of elected members given their equivalent sizes and range of issues. We have therefore decided to uphold the objections against the Council's final proposal in relation to the number of members for Waihi Ward.

Fair representation for electors

30. Section 19V of the Act requires that the electors of each ward receive fair representation having regard to the population of the district and of that ward. More specifically, section 19V(2) requires that the population of each ward divided by the number of members to be elected by that ward produces a figure no more than 10% greater or smaller than the population of the district divided by the total number of elected members (the '+/-10% fair representation rule').
31. Interestingly both the Council's initial proposal and its final proposal complied with the '+/-10% rule' and so this was not a factor in determining whether to uphold the Council's proposal or the objections against the proposal.
32. The arrangements that will apply for the October 2013 elections are summarised in the following table.

Wards	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Plains	6,160	4	1,540	-23	-1.47
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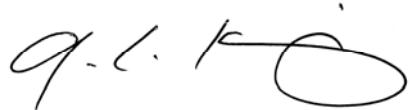
Communities and community boards

33. Section 19J of the Act requires every territorial authority, as part of its review of representation arrangements, to determine whether there should be community boards in the district and, if so, the nature of those communities and the structure of the community boards. The territorial authority must make this determination in light of the principle in section 4 of the Act relating to fair and effective representation for individuals and communities.
34. The Council was proposing that no community boards be established in Hauraki District and we received no appeals on this issue. We have, as a result, decided to endorse the Council's decision on this matter.

Commission's Determination

35. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Hauraki District Council to be held on 12 October 2013, the following representation arrangements will apply:
 - (1) Hauraki District, as delineated on LG-012-2013-W-1 deposited with the Local Government Commission, will be divided into three wards.
 - (2) Those three wards will be:
 - (a) Plains Ward, comprising the area delineated on LG-012-2013-W-2 deposited with the Local Government Commission
 - (b) Paeroa Ward, comprising the area delineated on SO Plan 57980 deposited with Land Information New Zealand
 - (c) Waihi Ward, comprising the area delineated on SO Plan 57979 deposited with Land Information New Zealand.
 - (3) The Council will comprise the mayor and 12 councillors elected as follows:
 - (a) 4 councillors elected by the electors of Plains Ward
 - (b) 4 councillors elected by the electors of Paeroa Ward
 - (c) 4 councillors elected by the electors of Waihi Ward.
36. As required by section 19T(b) of the Local Electoral Act 2001, the boundaries of the above wards coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes.

THE LOCAL GOVERNMENT COMMISSION



Grant Kirby (Acting Chair)



Anne Carter (Commissioner)

2 April 2013