



Determination

of representation arrangements to apply for
the election of Buller District Council
to be held on 12 October 2019

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, membership arrangements for those boards. Representation arrangements are to be determined so as to provide fair and effective representation for individuals and communities.
2. The Buller District Council (the council) last reviewed its representation arrangements prior to the 2013 local authority elections. Therefore, it was required to undertake a review prior to the next elections in October 2019.
3. At the time of the last review, there were no appeals against the council's final proposal. As a result, the representation arrangements determined by the council applied for the 2013 and subsequent 2016 local authority elections. These arrangements are set out in the following table.

Ward	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Seddon	1,740	2	870	-139	-13.78
Inangahua	1,980	2	990	-19	-1.88
Westport	6,370	6	1,062	+53	+5.25
Total	10,090	10	1,009		

*Based on Statistics NZ 2011 population estimates

4. There is also one community board, Inangahua, in the district.
5. For its current review, the council, at a meeting on 27 June 2018, considered a report on requirements for a representation review which identified four possible representation options:

- retention of existing arrangements
- introduction of a separate ward for the Karamea area
- introduction of a separate ward for the Punakaiki-Charleston area
- creation of Karamea and Punakaiki community boards.

6. At a meeting on 18 July 2018, the council adopted its initial representation proposal. This was for a council comprising the mayor and ten councillors elected from four wards as set out in the following table.

Ward	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Seddon	1,670	2	835	-179	-17.65
Inangahua	1,970	2	985	-29	-2.86
Westport	5,580	5	1,116	+102	+10.06
Paparoa	920	1	920	-94	-9.72
Total	10,140	10	1,014		

*Based on Statistics NZ 2017 population estimate

- The proposal was also for retention of the Inangahua Community Board with its same membership.
- The council notified its initial proposal on 31 July 2018 and called for submissions by 31 August 2018.
- The council received 48 submissions with 20 supporting the proposal and 28 opposing the proposal.
- At a meeting on 9 October 2018, the council, after considering the submissions, resolved to adopt existing representation arrangements, that is a council comprising the mayor and 10 councillors elected from three wards, as its final representation proposal. The proposal was also for retention of Inangahua Community Board.
- The proposed ward arrangements are set out in the following table.

Ward	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Seddon	1,670	2	835	-179	-17.65
Inangahua	1,970	2	985	-29	-2.86
Westport	6,500	6	1,083	+69	+6.84
Total	10,140	10	1,014		

*Based on Statistics NZ 2011 population estimates

- The final representation proposal was notified on 2 October 2018 and appeals/objections invited by 2 November 2018. One appeal against the council's final proposal was received.

Appeal against the council's final proposal

13. An appeal against the council's final proposal was received from Andrew Beaumont, supported by a petition signed by 51 people, seeking establishment of a revised new Paparoa ward.

Hearing of appeals

14. The Commission met with the council and the appellant Andrew Beaumont supported by Richard Arlidge and Ross Smith at a hearing held in Westport on 20 March 2019.
15. The council was represented by deputy mayor Graeme Neylon and chief executive Sharon Mason.

Matters raised at hearing and in appeals

Buller District Council

16. The deputy mayor referred to the approach the council had received from the Punakaiki community that led to the council proposing a new Paparoa ward in its initial representation proposal. The proposed new ward was for that part of Westport Ward south of the Buller River with the exception of Carters Beach. He said the council was not unanimous in deciding its initial proposal.
17. Mr Neylon said more of the submissions on the council's initial proposal were opposed to the proposal than supported it, with many submitters describing their connections to Westport and their preference to vote for six councillors rather than one. The proposal also excluded some people from Westport Ward who were closer to Westport than people in Carters Beach.
18. After considering the submissions, the council considered the proposed ward would not work and resolved accordingly to retain existing representation arrangements as its final representation proposal.
19. Mr Neylon referred to the revised proposal now being submitted by the appellants which reduced the population of a new Paparoa ward to a third of that proposed by the council. He noted this was a long way outside the fair representation requirements of the Act. He and the chief executive also described other informal initiatives being taken by the council to engage with Punakaiki and other communities of a similar size in the district.
20. In relation to community boards, Mr Neylon outlined his long experience on the Inangahua Community Board and how the board sometimes struggled to get enough candidates to hold an election. The board now held meetings two-monthly and if it wasn't for his chairman's report there would often not be enough business for these meetings. This lack of enthusiasm for community boards had also led the council not to propose any new boards including for Punakaiki.
21. On the boundary between the Seddon and Westport wards, Mr Neylon said while it might be described as arbitrary, the perceptions of people in Seddon Ward relating to their area were different to those in Westport and this was unlikely to change.

Appellants: Andrew Beaumont & Richard Arlidge

22. Mr Arlidge began by playing recorded messages from Marie Elder from Punakaiki and Kerry-Jane Wilson from Charleston in support of the proposed Paparoa ward.

23. The appellants outlined their concerns with present arrangements and the services provided by the council. These covered issues such as the local water supply and on which the appellants questioned the data the council had on numbers of users as the basis for its decisions, also seawalls and resource consent processes. All these issues demonstrated the need for the area to have a local representative to sit at the council table. Mr Arlidge said the Punakaiki-Charleston area also had a different demographic from Westport.
24. Mr Beaumont referred to the level of growth in the area and the range of activities throughout the whole coast road area. Tourism was increasing and the amount of traffic in the peak summer period put real pressure on local services. This highlighted differences between the usually resident population as used by the council for its decision-making, and actual numbers of tourists and other visitors in peak times. He said the area really needed a local representative who knew what was going on 'on the ground'.
25. Mr Smith from Fox River spoke of his experiences with the council and other agencies as local issues seemed to be becoming more intense, while local representation was getting less and less, but was needed more and more.

Matters for determination by the Commission

26. Section 19R of the Act makes it clear that the Commission, in addition to consideration of the appeals and objections against a council's final representation proposal, is required to determine, in the case of a territorial authority, all the matters set out in sections 19H and 19J which relate to the representation arrangements for territorial authorities. This interpretation was reinforced by a 2004 High Court decision which found that the Commission's role is not merely supervisory of a local authority's representation arrangements decision. The Commission is required to form its own view on all the matters which are in scope of the review.
27. Given this requirement, any concerns expressed by appellants/objectors relating to the council's review process are not matters that the Commission needs to address. We may, however, comment on a council's process if we believe it would be of assistance to the council in a future review.
28. The matters in scope of the review are:
 - whether the council is to be elected from wards, the district as a whole, or a mix of the two
 - the number of councillors
 - if there are to be wards, the area, boundaries and names of wards and the number of councillors to be elected from each ward
 - whether there are to be community boards
 - if there are to be community boards, the area, boundaries and names of their communities, and the membership arrangements for each board.

Key considerations

29. Based on legislative requirements, the Commission's *Guidelines for local authorities undertaking representation reviews* identify the following three key factors when considering representation proposals:
 - communities of interest

- effective representation of communities of interest
- fair representation for electors.

Communities of interest

30. The Guidelines identify three dimensions for recognising communities of interest:
- *perceptual*: a sense of identity and belonging to a defined area or locality as a result of factors such as distinctive geographical features, local history, demographics, economic and social activities
 - *functional*: ability of the area to meet the needs of communities for services such as local schools, shopping areas, community and recreational facilities, employment, transport and communication links
 - *political*: ability to represent the interests of local communities which includes non-council structures such as for local iwi and hapū, residents and ratepayer associations and the range of special interest groups.
31. We note that in many cases councils, communities and individuals tend to focus on the perceptual dimension of communities of interest. That is, they focus on what intuitively they ‘feel’ are existing communities of interest. While this is a legitimate view, more evidence may be required to back this up. It needs to be appreciated that the other dimensions, particularly the functional one, are important and that they can also reinforce the ‘sense’ of identity with an area. In other words, all three dimensions are important but should not be seen as independent of each other.
32. In addition to evidence demonstrating existing communities of interest, evidence also needs to be provided of *differences* between neighbouring communities i.e. that they may have “few commonalities”. This could include the demographic characteristics of an area (e.g. age, ethnicity, deprivation profiles) and how these differ between areas, and evidence of how different communities rely on different services and facilities.
33. In the case of Buller District, the district was established in 1989 with amalgamation of the then Westport Borough, Buller County and Inangahua County. At that time the then Local Government Commission identified three distinct groupings of communities of interest being those that: exist in Granity and Ngakawau and north to Karamea; lie in the vicinity of Westport; and identify with the township of Reefton. It established the wards of Seddon, Westport and Inangahua respectively for these three groupings. These three groupings have remained in place since 1989.

Effective representation of communities of interest

34. 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 mix of both) will provide effective representation of communities of interest within the city
 - 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 (where they exist).

35. 'Effective representation' is not defined in the Act, but the Commission sees this as requiring consideration of factors including the appropriate total number of elected members and the appropriate basis of election of members for the district concerned (at large, wards, or a mix of both).
36. Section 19A of the Act provides that a territorial authority shall consist of between 5 and 29 members, excluding the mayor. Buller District Council comprised a mayor and 11 councillors on its constitution in 1989 and until the 2007 elections when this number was reduced to the current ten councillors as a result of a determination by the Local Government Commission. This number is in line with other councils of a similar size.
37. The Commission's Guidelines note the following factors need to be considered when determining effective representation:
 - avoiding arrangements that may create barriers to participation, such as at elections by not recognising residents' familiarity and identity with an area
 - not splitting recognised communities of interest between electoral subdivisions
 - not grouping together two or more communities of interest that share few commonalities of interest
 - accessibility, size and configuration of an area including access to elected members and vice versa.
38. As noted, the current three wards were established when the district was constituted in 1989 and remain in place today. As a result, the wards are familiar to residents who are likely to identify reasonably closely with them.
39. This is particularly the case in respect of Inangahua Ward which reflects a geographically distinct community of interest based on the town of Reefton. This was first recognised by the Local Government Commission when it constituted Buller District in 1989. As part of its constitution, a community board was established covering Inangahua Ward and a service centre was established in Reefton.
40. In 2007, the Commission described this area as "different from the other two areas, being inland and surrounded by mountain ranges with access to the rest of the district only via state highway 6 through the lower Buller Gorge". The Commission also noted that some residents of the ward were more likely to use particular services in Greymouth (in neighbouring Grey District) than in Westport.
41. The other two wards (Seddon and Westport) have some commonalities being more coastal in nature with residents using Westport as the main service town. In 2007 the Commission described the boundary between these two wards as "somewhat arbitrary". This was reflected in the observation that the townships of Hector, Ngakawau and Granity and their surrounding areas (in the southern part of the Seddon Ward) comprised approximately fifty per cent of the ward's population with their residents having easy access and travelling regularly to Westport, within an approximate 35 minutes' drive, for services. This is in contrast with Karamea which is a 90-minute drive from Westport, with residents north of Karamea Bluff likely to use services and facilities in Karamea and with travel to Westport less frequent.
42. While the boundary between the two wards may be "somewhat arbitrary", clearly the further you travel north from Westport the more distinct the northern area becomes.

Given the longevity of these ward arrangements, we assume they are familiar to residents and that residents identify reasonably closely with their ward. The deputy mayor confirmed this to us by saying the perceptions of the residents of Westport and Seddon wards in relation to their own area, are quite different.

43. In summary, we believe the current ward arrangements in the district may be seen to assist achievement of effective representation for the communities of interest concerned. We address the suggestion of a new southern ward next.

Fair representation for electors

44. For the purposes of fair representation for the electors of a district, section 19V(2) of the Act requires that the population of each ward divided by the number of members to be elected by that ward must produce a figure no more than 10 per cent greater or smaller than the population of the district divided by the total number of members (the '+/-10% rule').
45. However, section 19V(3)(a) makes it clear that if a territorial authority or the Commission considers that one or more of the following apply, wards may be defined and membership distributed between them in a way that does not comply with the '+/-10% rule':
- a) non-compliance is required for effective representation of communities of interest within island communities or isolated communities situated within the district of the territorial authority
 - b) compliance would limit effective representation of communities of interest by dividing a community of interest between wards
 - c) compliance would limit effective representation of communities of interest by uniting within a ward, two or more communities with few commonalities of interest.
46. In the council's final proposal two wards (Inangahua and Westport) comply with the rule and one (Seddon) does not. In addition, the revised Paparoa ward being promoted by the appellants would also not comply with the '+/-10% rule'.
47. We believe to extend Seddon Ward southward toward Westport, with a view to it complying with the '+/-10% rule', is likely to result in the boundary between these two wards being seen as even more arbitrary than it has been described at present. This is because it would require the transfer of people with a closer identification and affinity with the Westport urban area to the rurally focussed Seddon Ward.
48. One ground for non-compliance is that it is necessary for effective representation of isolated communities. We heard from the council there is a case that can be argued that the Karamea area in the northern area of Seddon Ward is an isolated community. We note that a further ground for non-compliance is that it is necessary for effective representation so as to avoid either splitting communities of interest between wards or grouping together communities of interest with few commonalities.
49. We believe that latter grounds i.e. not splitting communities of interest, namely the Westport community of interest, and not grouping communities with few commonalities, those of urban Westport with those of the rural Seddon Ward, are the most appropriate grounds for the non-compliance of Seddon Ward with the '+/-10% rule'. We determine accordingly to endorse the council's decision in respect of Seddon Ward.

50. We turn now to the appellants' suggestion of establishing a revised Paparoa ward for an area of Westport Ward south of a line between Mountain Creek and Okari River with an estimated population of 310. This population is based on the usually resident population (2017 population estimates) which we and the council are required to use. It is well short of the average population per councillor used to apply the '+/-10% rule' of 1,014.
51. We acknowledge concerns raised by the appellants and their supporters arising in large part as a result of increased tourism, development and other activities at Punakaiki and its environs. However, we do not consider a ward with an estimated resident population of just 310 people can be supported given the statutory criteria for fair representation including the grounds for non-compliance. While actual numbers of people at any one time may be considerably higher than this, particularly in the peak summer period, we are bound by legislation to use usually resident population figures to calculate fair representation. We therefore must reject the appeal.
52. We encourage the appellants and their supporters to engage further with the council with their concerns with a view to identifying other mechanisms for ongoing consultation and providing input into council decision-making. We note the only such mechanism within the scope of a representation review is the establishment of a community board. However, as noted there was not a lot of enthusiasm from either the appellants or the council for establishment of further community boards in the district including in the Punakaiki-Charleston area. However, we encourage the concerned parties to maintain dialogue with a view to identifying mutually agreed arrangements to address issues of concern.

Communities and community boards

53. 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.
54. The particular matters the territorial authority, and where appropriate the Commission, must determine include the number of boards to be constituted, their names and boundaries, the number of elected and appointed members, and whether the boards are to be subdivided for electoral purposes. Section 19W also requires regard to be given to such of the criteria as apply to reorganisation proposals under the Local Government Act 2002 as is considered appropriate. The Commission sees two of these criteria as particularly relevant for the consideration of proposals relating to community boards as part of a representation review:
 - Will a community board have an area that is appropriate for the efficient and effective performance of its role?
 - Will the community contain a sufficiently distinct community or communities of interest?
55. An Inangahua Community Board was established when Buller District was constituted in 1989 and the council is proposing this board remains in place with its current membership. We endorse this aspect of the council's proposal.

56. As noted, the council did identify the options of establishing further community boards in Karamea and/or Punakaiki in the early stages of the review, it did not proceed with either of these options. While there was a lack of enthusiasm expressed at the hearing for community boards, they do remain options for consideration for the council and local communities.

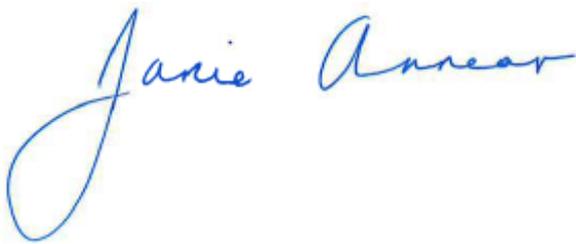
Commission's determination

57. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of Buller District Council to be held on 12 October 2019, the following representation arrangements will apply:
1. Buller District, as delineated on SO Plan 11451 deposited with Land Information New Zealand, will be divided into three wards.
 2. Those three wards will be:
 - a) Seddon Ward, comprising the area delineated on SO Plan 14452 deposited with Land Information New Zealand
 - b) Inangahua Ward, comprising the area delineated on SO Plan 14454 deposited with Land Information New Zealand
 - c) Westport Ward, comprising the area delineated on SO Plan 14453 deposited with Land Information New Zealand.
 3. The council will comprise the mayor and 10 councillors elected as follows:
 - a) 2 councillors elected by the electors of Seddon Ward
 - b) 2 councillors elected by the electors of Inangahua Ward
 - c) 6 councillors elected by the electors of Westport Ward.
 4. There will be an Inangahua Community, comprising the area of Inangahua Ward.
 5. The Inangahua Community Board will comprise four elected members and two members appointed by the council representing Inangahua Ward.
58. As required by sections 19T(b) and 19W(c) of the Local Electoral Act 2001, the boundaries of the above wards and community coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes.

LOCAL GOVERNMENT COMMISSION

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Commissioner Pita Paraone (Chairperson)

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Commissioner Janie Annear

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Commissioner Brendan Duffy

9 April 2019