



Determination

of representation arrangements to apply for
the election of Hutt City 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. Hutt City 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, the council's initial and final proposals were for the council to continue to comprise the mayor and 12 councillors elected from the existing six wards subject to one minor boundary alteration. The proposals were also for the retention of the three existing community boards with their existing membership. There was one appeal against the council's final proposal.
4. After considering the appeal, the Commission endorsed the council's proposal. As a result, the ward arrangements for the 2013 and subsequent 2016 elections were as set out in the following table.

Ward	Population*	Number of councillors per ward	Population per councillor	Deviation from city average population per councillor	% deviation from city average population per councillor
Northern	16,350	2	8,175	-404	-4.71
Eastern	17,950	2	8,975	+396	+4.62
Western	15,650	2	7,825	-754	-8.79
Central	16,950	2	8,475	-104	-1.21
Wainuiomata	18,100	2	9,050	+471	+5.49
Harbour	17,950	2	8,975	+396	+4.62
Total	102,950	12	8,579		

*Based on Statistics NZ 2011 population estimates

5. The Commission also endorsed the council's proposals for the existing three community boards (Petone, Eastbourne and Wainuiomata).
6. For its current review, the council began its consideration of representation options at a council workshop in March 2018 with a further workshop with community boards and community panels in April 2018. Two surveys (an online citizens panel survey and a telephone survey) were also undertaken to gauge community views on two particular representation issues: the basis of election for councillors (wards, at large or a mix of both) and second tier representation structures (community boards, community panels).
7. The citizens panel survey (Facebook, random sample, self-selected) received 657 completed responses and overall results on the two issues were as follows:
 - a) basis of election:
 - i. 45% supported the ward system
 - ii. 44% supported the mixed system
 - iii. 7% supported at large
 - b) second tier representation:
 - i. 50% supported retaining some form of second tier representation
 - ii. 38% did not support this form of representation
 - iii. 12% were unsure
 - iv. support for status quo arrangements (a mix of three community boards and four community panels) was highest overall across the three different survey modes
 - v. support for community boards across the city was next highest
 - vi. support for community panels across the city was lowest.
8. The telephone survey was conducted among a stratified random sample of 400 residents with overall results on the two issues as follows:
 - a) basis of election:
 - i. 55% supported the status quo (ward system)
 - ii. 29% supported the mixed system
 - iii. 9% supported at large
 - iv. 7% were unsure
 - b) second tier representation:
 - i. 67% supported second tier representation
 - ii. 17% did not support second tier representation
 - iii. 16% were unsure
 - iv. 20% supported the current mixed form of second tier arrangements
 - v. 48% supported community boards across the city
 - vi. 21% supported community panels across the city
 - vii. 3% supported none of these options.

9. At a meeting on 24 July 2018, the council adopted its initial representation proposal.
10. This proposal was for retention of a council comprising the mayor and 12 councillors with two councillors continuing to be elected from each of the six current wards. The proposal was also for retention of the current three community boards: Petone (6 elected and two appointed members), Eastbourne (five elected and two appointed members) and Wainuiomata (six elected and two appointed members).
11. The proposal resulted in ward arrangements as set out in the following table.

Ward	Population*	Number of councillors per ward	Population per councillor	Deviation from city average population per councillor	% deviation from city average population per councillor
Northern	16,100	2	8,050	-675	-7.74
Eastern	17,550	2	8,775	+50	+0.57
Western	16,600	2	8,300	-425	-4.87
Central	17,100	2	8,550	-175	-2.01
Wainuiomata	18,450	2	9,225	+500	+5.73
Harbour	18,900	2	9,450	+725	+8.31
Total	104,700	12	8,725		

*Based on Statistics NZ 2017 population estimates

12. The council notified its initial proposal on 1 August 2018 and called for submission by 3 September 2018. The council received nine submissions.
13. In notifying its final proposal, the council analysed the submissions as follows:
 - two supporting at large elections, one supporting a mixed system and one supporting either at large or a mixed system of representation, with a further submission suggesting further investigation and consultation on the basis of election given preliminary feedback received by the council was not clear
 - four supporting community boards across the city, two supporting retention of existing community board arrangements, one supporting the merger of the Petone and Eastbourne community boards, with a further submission supporting a review of the effectiveness of community boards in three years' time.
14. At a meeting on 9 October 2018, the council, after considering the submissions, resolved to adopt its initial proposal as its final representation proposal.
15. The final representation proposal was notified on 23 October 2018 and appeals invited by 4 December 2018. Two appeals against the council's final proposal were received.

Appeals against the council's final proposal

16. Appeals against the council's final proposal were received from:
 - Max Shierlaw – seeking either at large or a mixed system of representation
 - Matthew Young – seeking a mixed system of representation.

Hearing of appeals

17. The Commission met with the council and the two appellants at a hearing held in Lower Hutt on 27 March 2019.
18. The council was represented by councillor Margaret Cousins and the council's Divisional Manager Strategy and Planning Wendy Moore.

Matters raised at hearing and in appeals

Hutt City Council

19. Ms Moore outlined the process the council had undertaken during its review and gave particular focus to the issue of wards or an at large/mixed system of representation given this was the subject of the two appeals. She said the council was satisfied it had undertaken a robust review process.
20. Ms Moore described in some detail the surveys undertaken as part of the preliminary consultation phase of the review. This involved a citizens panel using a variety of survey mechanisms and also a telephone survey managed independently from the council. The council had also conducted a number of workshops with both councillors and also members of the community boards/panels focusing on identifying communities of interest, the issue of wards versus at large/mixed representation systems and roles and delegations to the community boards/panels.
21. In reaching its decisions, the council had considered what generally people thought about current arrangements through a range of feedback channels, as well as detailed analysis of the input received. In response to a question, Ms Moore acknowledged the council had made an error in excluding people under 18 years in an early survey but had addressed this in follow-up surveys.
22. Both Ms Moore and Councillor Cousins said that, overall, the council was satisfied there was more support for a ward system than either a mixed or at large system of representation, and that the council had got its decision right.

Max Shierlaw

23. Mr Shierlaw gave a presentation outlining the main points of his appeal. This included evidence around the country of similar sized councils having an element of at large representation which he considered to be best practice; what he saw as a clear majority of community support for change in Lower Hutt's election system; and an absence of communities of interest meeting the guidelines for separate electoral representation.
24. Mr Shierlaw said he believed most people would identify as living in Lower Hutt and that only Wainuiomata could reasonably be considered as having a boundary. He then displayed a number of maps of suburban areas with what he saw as arbitrary boundaries separating them into different wards. In contrast he identified three features of the city which are often referred to as boundaries, being the Hutt River, State Highway 2 and the main railway lines. Current wards crossed these boundaries. They also crossed a number of high school catchment zones. Mr Shierlaw also referred to the fact the city had two main shopping areas, being the main Lower Hutt CBD and Petone, which were accessed from across the city, and it had major industrial areas in three wards employing people from across the city.

25. In addition, there was a range of infrastructural services providing city-wide services, ethnic groups who lived across the city and deprivation existed across most of the city. He said this demonstrated a need for a political voice representative of all people using and/or contributing to council facilities and services. To him, this demonstrates that the six geographic wards do not represent communities of interest. While he would prefer an at large system of representation, Mr Shierlaw said he would accept a mixed system at this time.

Matthew Young

26. Mr Young also gave a presentation in support of his appeal. This was critical of the council's efforts to define communities of interest in the city and the basis of the council's decision to retain status quo representation arrangements.
27. Mr Young said he believed most people would identify with the city as a whole, with the biggest exceptions being the three community board areas. He said, apart from Wainuiomata Ward, the remaining wards are not communities of interest in any perceptual sense. He also referred to a number of features of the city including: there being two major retail and employment hubs in the city, the main Lower Hutt CBD and Petone; there are two major industrial hubs in Seaview and Wingate; while many essential services have become centralised and major roads, like High Street, traverse wards.
28. Mr Young said he favoured a mixed system of representation. This would be a good balance reflecting the nature of Lower as a compact city having some communities of interest spread across the city, and there being high deprivation across most wards. On the other hand, council facilities were distributed across wards and people were familiar at least with some wards, while Wainuiomata was clearly distinct geographically. A mixed system would also provide more choice for voters, while providing a good balance between access to local representatives and political representation of wider interest groups. He thought an at large system would risk some areas not being represented.
29. In response to a question, Mr Young said he would like to see community boards across the city.

Matters for determination by the Commission

30. 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.
31. 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.
32. 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

33. 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

34. 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.
35. 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.
36. 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.
37. Lower Hutt City was constituted in 1989 with the amalgamation of the existing Lower Hutt City, Petone Borough, Eastbourne Borough and Wainuiomata District. The three areas joining the existing city were recognised as communities with each having a community board which still exist today.

Effective representation of communities of interest

38. 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).
39. '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).
40. Section 19A of the Act provides that a territorial authority shall consist of between 5 and 29 members, excluding the mayor. Lower Hutt City Council (later renamed Hutt City Council) initially comprised a mayor and 15 councillors. From the 1995 local authority elections, the number of councillors gradually reduced from 13 to 11, with the present number of 12 councillors being set as from 2007.
41. The Commission's Guidelines note the following factors need to be considered when determining effective representation for the district:
- a) avoiding arrangements that may create barriers to participation, such as at elections by not recognising residents' familiarity and identity with an area
 - b) not splitting recognised communities of interest between electoral subdivisions
 - c) not grouping together two or more communities of interest that share few commonalities of interest
 - d) accessibility, size and configuration of an area including access to elected members and vice versa.
42. Lower Hutt City has had a ward system of representation since 1989 with Harbour Ward (largely comprising Petone and Eastbourne) and Wainuiomata Ward being in place since that time, and 'the old Lower Hutt area' divided into three then four wards.
43. Both appellants considered that only Wainuiomata Ward of the six current wards, could be seen as a distinct recognisable community of interest given the geography of this ward. They did acknowledge, however, the two other areas that joined the 'old Lower Hutt' in 1989 were also reasonably recognisable though they considered that the existing community boards adequately reflected the respective communities of interest.
44. We note Harbour Ward does include some areas of the 'old Lower Hutt area' and some of its boundaries with neighbouring wards include the "arbitrary" boundaries identified by one of the appellants. As a result, even Harbour Ward is not as recognisable as a distinct community or communities of interest.

45. While the three areas joining the 'old Lower Hutt' are recognisable communities of interest, albeit with reducing distinction from Wainuiomata to Eastbourne to Petone, we agree with the appellants it is more difficult to describe the remaining four wards as communities of interest. This is not to say they do not include distinct communities of interest within them, but that as groupings of communities of interest, there appears to us to be a degree of arbitrariness with particular boundaries set presumably for the purpose of equal representation per ward (i.e. two councillors per ward) and then compliance with the +/-10% fair representation requirement. This relates particularly to the boundaries between the Harbour and Western wards, the Harbour and Eastern wards, and the boundaries of Central Ward.
46. We note that amendments to the fair representation requirements in the Local Electoral Act were enacted following the council's last representation review. In light of the resulting increased flexibility and new balance between fair and effective representation, we asked the council whether it had considered a need for any boundary alterations with a view to achieving more effective representation for particular communities of interest. We were advised it had not seen a need for any such alterations.
47. Apart from noting the apparent arbitrariness of some ward boundaries pointed out by the appellants, we were impressed with the information both appellants provided in respect of the communities of interest they saw as city-wide and not relating at all to ward boundaries. These include communities of interest reflecting: different socio-economic and ethnic characteristics; functional connections relating to employment, shopping and schools; and perceptions of the city as a whole reflecting its geography, history and the nature of development.
48. Both appellants made the point these communities of interest are not recognised in the current structure of six equally-sized wards. They did point out the existence of such communities of interest was noted in council officer reports, however this does not appear to have been given much weight by the council in deciding to retain status quo representation arrangements.
49. We agree that the city-wide communities of interest coupled with the nature of Lower Hutt as a relatively compact city, particularly the central valley floor area defined largely by its eastern and western hills and harbour shoreline, provide a strong argument for a more city-wide approach to representation. In addition, we believe such an approach would help bring the city together even more. The need for this fresh approach can be seen in the repeated efforts through successive representation reviews to address perceived inequities of representation at the community level between the three areas added and the 'old Lower Hutt'.
50. We are not suggesting local communities of interest are not important or that they should be ignored. They can and should be nurtured, first through explicit recognition of their existence and then through discussion of the most effective means for their representation including through possible groupings with communities with sufficient commonalities. In some cases, this may not result in any change such as, we suspect, would be the case in relation to the Wainuiomata community.
51. Until this work is undertaken, we believe the current groupings of communities into six wards should be retained. However, alongside these wards we believe a more city-wide approach should also be adopted. Therefore, we have decided to endorse the suggestions of the appellants that a mixed system of representation should be

introduced. We believe an arrangement whereby six councillors are elected city-wide and six are elected from the existing six wards would be appropriate. We determine accordingly.

52. These arrangements will apply for the 2019 elections. The council will then have the opportunity to give further consideration to the appropriateness or otherwise of the present six wards and, if it so wishes, consider changes in time for the subsequent 2022 elections.
53. In making this determination, we note that in addition to the benefits we have identified above such as recognition of city-wide communities of interest, this arrangement has the advantage of allowing voters to vote for a total of seven councillors being a majority of the council. It will also provide individuals with a choice of standing for election to represent either the city as a whole, or to represent their more local community. On the other hand, we note traditional arguments raised in relation to at large elections include the cost of campaigning. We respond noting the choice of either standing at large or in a ward under the new arrangement, and in relation to standing at large the number of positions will allow candidates to focus their campaigns on particular communities of interest that we have identified as existing city-wide.
54. Finally, we acknowledge the council's argument that there was some majority support in its consultation exercises for the retention of status quo representation arrangements. On the other hand, the appellants saw the results of these exercises, particularly when you combine the support for a mixed system and support for at large representation, as providing evidence of support for change. We believe there is sufficient evidence of support for change and when the arguments for the new system are explained, this may well increase.

Fair representation for electors

55. 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').
56. The determination we have made retaining the existing six wards, each electing one councillor, complies with the rule.

Communities and community boards

57. 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.
58. 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?
59. There have been three community boards (Petone, Eastbourne and Wainuiomata) in Lower Hutt City since 1989.
60. One of the appellants supported expansion of community boards across the city.
61. We have noted above that we see our determination as providing the council the opportunity to carry out further work on the more local communities of interest across the city perhaps in time for a further representation review in three years' time. We see this work as extending to consultation with local communities seeking their view on the need, or otherwise, for new community representation structures. This will include consideration of retention of existing community boards and possible establishment of new ones.
62. In the meantime, we believe it is appropriate to endorse the council's proposal to retain the existing three community boards. Each board will retain its current number of elected members but the number of appointed members will be reduced to one being the councillor for the ward in which the board is located. We determine accordingly.

Commission's determination

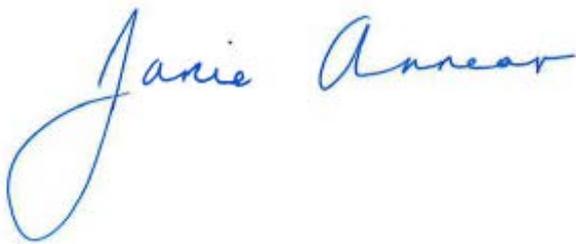
63. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of Hutt City Council to be held on 12 October 2019, the following representation arrangements will apply:
1. Lower Hutt City, as delineated on Plan LG-046-2013-W-1 deposited with the Local Government Commission, will be divided into six wards.
 2. Those six wards will be:
 - a) Northern Ward, comprising the area delineated on SO Plan 37405 deposited with Land Information New Zealand
 - b) Western Ward, comprising the area delineated on Plan LG-046-2013-W-2 deposited with the Local Government Commission
 - c) Eastern Ward, comprising the area delineated on SO Plan 37407 deposited with Land Information New Zealand
 - d) Central Ward, comprising the area delineated on SO Plan 37409 deposited with Land Information New Zealand
 - e) Harbour Ward, comprising the area delineated on Plan LG-046-2013-W-3 deposited with the Local Government Commission
 - f) Wainuiomata Ward, comprising the area delineated on SO Plan 35984 deposited with Land Information New Zealand.

3. The council will comprise the mayor and 12 councillors elected as follows:
 - a) 1 councillor elected by the electors of Northern Ward
 - b) 1 councillor elected by the electors of Western Ward
 - c) 1 councillor elected by the electors of Eastern Ward
 - d) 1 councillor elected by the electors of Central Ward
 - e) 1 councillor elected by the electors of Harbour Ward
 - f) 1 councillor elected by the electors of Wainuiomata Ward
 - g) 6 councillors elected by the electors of Lower Hutt City as a whole.
4. There will be three communities as follows:
 - a) Petone Community, comprising the area delineated on Plan LG-046-2013-Com-1 deposited with the Local Government Commission
 - b) Eastbourne Community, comprising the area delineated on SO Plan 36005 deposited with Land Information New Zealand
 - c) Wainuiomata Community, comprising the area of Wainuiomata Ward.
5. The membership of each community board will be as follows:
 - a) Petone Community Board will comprise six elected members and one member appointed to the community board by the council representing Harbour Ward
 - b) Eastbourne Community Board will comprise five elected members and one member appointed to the community board by the council representing Harbour Ward
 - c) Wainuiomata Community Board will comprise six elected members and one member appointed to the community board by the council representing Wainuiomata Ward.
64. As required by sections 19T(b) and 19W(c) of the Local Electoral Act 2001, the boundaries of the above wards and communities 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

10 April 2019