



## **Determination**

of representation arrangements to apply for  
the election of Kaipara 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 Kaipara District Council (the council) last reviewed its representation arrangements prior to the 2013 local authority elections.<sup>1</sup> 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 proposal was to retain the existing three wards but to add an additional councillor in order to comply with statutory fair representation requirements. The initial proposal was also for there to continue to be no community boards in the district. Following the consideration of submissions on its initial proposal, the council resolved to amend its proposal by retaining the existing eight councillors and to alter the boundary between two wards in order to comply with statutory fair representation requirements. One appeal against the council's proposal was received.
4. After considering the appeal, the Commission endorsed the council's proposal for a council comprising the mayor and eight councillors elected from three wards, and for there to be no community boards. As a result, the ward arrangements for the 2016 elections were as set out in the following table.

---

<sup>1</sup> On 6 September 2012, the Minister of Local Government appointed four commissioners to perform and exercise the responsibilities, duties and powers of the Kaipara District Council. The Gazette notice of these appointments advised that the October 2013 triennial elections of the council were cancelled and the next general election of the council would be held on 17 October 2015. The Commission's determination was therefore to apply to those elections. Subsequently, the 2015 election was not held with the next election held at the time of the 2016 triennial local authority elections.

Ward	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
West Coast-Central	6,910	3	2,303	-93	-3.88
Dargaville	4,440	2	2,220	-176	-7.35
Otamatea	7,820	3	2,607	+211	+8.81
<b>Total</b>	<b>19,170</b>	<b>8</b>	<b>2,396</b>		

\*Based on Statistics NZ 2011 population estimates

5. For its current review, the council undertook some informal consultation with the community by way of a survey between 30 April and 18 May 2018. A total of 78 responses were received. In summary, these showed:
  - 65% wanted a ward system retained, 14% wanted an at large system, 19% wanted a mixed system
  - 44% were happy with the current ward names, 21% were not
  - 55% wanted eight councillors retained, 22% wanted nine councillors
  - 53% wanted community boards, 37% did not.
6. At a series of briefings, the council considered a number of representation options. These included seven, eight or nine councillors; three or four wards; a mix of four councillors elected at large and four elected from four wards; at large representation with community boards.
7. At a meeting on 26 July 2018, the council adopted its initial representation proposal. This was for a council comprising the mayor and eight 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
West Coast-Central	5,830	2	2,915	+95	+3.37
Dargaville	5,080	2	2,540	-280	-9.93
Otamatea	5,480	2	2,740	-80	-2.84
Kaiwaka-Mangawhai	6,170	2	3,085	+265	+9.40
<b>Total</b>	<b>22,560</b>	<b>8</b>	<b>2,820</b>		

\*Based on Statistics NZ 2017 population estimate

8. In addition to a new fourth ward, the proposal included a boundary change between the West Coast-Central and Otamatea wards involving the transfer of the Ararua/ Matakohe area from West Coast-Central Ward to Otamatea Ward. This would result in a return to the previous boundary altered in the Commission's 2012 determination in order to achieve compliance with fair representation requirements.
9. The proposal was also for there to continue to be no community boards in the district.

10. The council notified its initial proposal on 1 August 2018 and called for submissions by 31 August 2018.
11. The council received 81 submissions with 28 supporting the proposal and 53 opposing the proposal.
12. At a meeting on 9 October 2018, the council, after considering the submissions, resolved to adopt its initial proposal as its final representation proposal.
13. In notifying its final proposal, the council gave the following reasons for its decisions:
  - a) *the east/west balance*: the four-ward structure, two in the east (with four councillors) and two in the west (with four councillors) provides balanced representation for the district's communities and individuals
  - b) *the number of councillors*: eight councillors provide fair and effective representation, this was supported by preliminary consultation prior to the initial proposal, plus significant opposition to nine councillors when considered at the last representation review
  - c) *adequate representation of Mangawhai area*: the establishment of a new Kaiwaka-Mangawhai Ward (with two councillors) directly addresses the need for representation from the south-east of the district
  - d) *recognition of communities of interest*: the proposed ward structure reflects the district's different communities of interest (specifically reflecting community involvement and access to goods and services)
  - e) *democratic process*: the final proposal meets the legislative requirements of identifying communities of interest and providing fair and effective representation.
14. The final representation proposal was notified on 12 October 2018 and appeals invited by 12 November 2018. Four appeals against the council's final proposal were received.

### **Appeals against the council's final proposal**

15. Appeals against the council's final proposal were received from:
  - Helen Curreen – appealed against the proposed ward arrangements and particularly under-representation for the Mangawhai community.
  - Craig Prouting (on behalf of Hakarau Community Hall and Domain Society) – appealed against the name of Kaiwaka-Mangawhai Ward.
  - Clive Boonham – appealed against the council's failure to properly consider the principles of the Local Electoral Act in determining its final proposal and some process issues.
  - Paul Smith – appealed against the council's failure to meet the fair representation requirements of the legislation.

### **Hearing of appeals**

16. The Commission met with the council and three of the appellants who wished to be heard, at a hearing held in Mangawhai on 14 March 2019.
17. The council was represented by mayor Jason Smith and chief executive Louise Miller.

## *Matters raised at hearing and in appeals*

### *Kaipara District Council*

18. The mayor gave a presentation outlining the process the council had undertaken during the review, the decisions reached and some context for those decisions. This context included that Dargaville with a population of 4,200 and Mangawhai with a population of 3,700, had about a third of the district's population and were an hour and a half drive apart. He also described Kaipara as having the fastest growing population in the North Island with most of this occurring in the east of the district.
19. One of the difficulties the district faced was reconciling the interests of the resident population with those of non-resident ratepayers which reflected the high and growing number of second/holiday homes in the district.
20. In relation to the issue of community boards, the mayor said he saw a risk of over-governing and that he considered the wards were a better reflection of communities of interest.
21. In response to a question, the mayor said one of the key issues was for the council not to promote or be seen to promote a 'hard line' between the eastern and western areas of the district which were very different in nature.

### *Helen Curreen*

22. Ms Curreen noted she was the sole appellant in the council's previous review and that appeal was for similar reasons. Her main concern was what she considered to be ongoing under-representation for the eastern area of the district. The present representation ratios favour Dargaville with a level of over-representation (-9.93%) compared to under-representation for the Mangawhai area (+9.40%). This was despite population growth in the east and the high number of non-resident ratepayers and holidaymakers who don't get counted in a representation review.
23. She said she believed fair and effective representation for the district would help overcome the divide between east and west. She had supported the introduction of STV in Kaipara and believed a two-ward arrangement would be a better option. Ms Curreen said she would also support another review being carried out in three years.

### *Clive Boonham*

24. Mr Boonham said he saw the council's proposal as destroying the long-established Otamatea community of interest by separating of the Kaiwaka-Mangawhai area which he described as integral to the ward. He said he also didn't see it as fair representation for Dargaville to be so close to the limit for over-representation while Mangawhai was close to the limit for under-representation.
25. Mr Boonham said while technically out of scope, population growth should be able to be taken into account in the review. He also referred to the council's decision-making process and challenged the mayor's use of his casting vote to carry the decision on the final proposal. In the circumstances he said he believed the proposal was not the proposal of Kaipara District Council and should be treated as a pro forma submission.

*Paul Smith*

26. Mr Smith said he was originally from the small settlement of Pahi in Otamatea Ward though recently he had spent more time in Dargaville with work. He described himself as an Otamatean and considered he knew the area well. He said he believed the ward did have a centre based in Maungaturoto. He believed separating off the proposed new ward would make it a more attractive 'apple' for Auckland to pick off.
27. Mr Smith said he believed the proposal did not properly meet requirements for fair representation across the district and considered non-resident population should also be taken into account.

### **Matters for determination by the Commission**

28. 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.
29. 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.
30. 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**

31. 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**

32. 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.
33. 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.
34. 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.
35. In the case of Kaipara District, the district covers an area stretching from the west coast to the east coast of Northland Region and includes the northern part of the Kaipara harbour. As part of the current representation review, the council recorded the district as comprising four defined communities of interest: the urban township of Dargaville; the rural western central/coastal area; the rural central inner harbour area; and the rural/urban eastern coastal area (including Mangawhai described on the council’s website as becoming increasingly popular as a lifestyle and holiday destination).

### ***Effective representation of communities of interest***

36. 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).
37. ‘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).
38. The council comprised 10 councillors from its constitution in 1989 until the 2007 elections when this number was reduced to the current eight councillors. We note

there was majority support for this number of councillors in the council's preliminary consultation and also that when the council initially proposed an increase in the previous review there was strong community opposition to this.

39. 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.
40. Four wards were established when the district was constituted in 1989 and remained until the 2007 elections when the number of wards was reduced to the current three. As part of the 2013 review, the council did consider options for re-establishing a fourth ward in the south-eastern area of the district, but these failed to attract strong council and community support at that time.
41. There appears to be continuing clear majority support for a ward system of representation in Kaipara District. Some debate does continue, however, over the most appropriate number of wards. In addition to the council's proposal to increase the number of wards from three to four, there was consideration of a two-ward structure by combining the West Coast-Central and Dargaville wards and retaining the current Otamatea Ward (to include the proposed Kaiwaka-Mangawhai Ward).
42. In the hearing both the mayor and the appellants described in some detail the nature of the communities of interest in the eastern and central areas of the district in particular. This included local schools, employment, shopping and other services, along with factors such as telephone listings, mobile phone coverage and connections to Auckland generally. The eastern area has also seen significant population growth as well as growth in both second/holiday homes and in numbers of tourists. On the other hand, we also heard that, contrary to some people's understanding, there is a level of growth in Dargaville which the council needed to address.
43. This presents quite a complicated picture when it comes to identifying current communities of interest for the purpose of achieving effective representation for these communities. Given the present level of growth, there is also a need to have the most up-to-date statistical information to reflect the current situation and future trends. In this regard the mayor said he would like to see the council undertake another representation review in three years rather than wait another six years.
44. On the basis the council does undertake another review in three years using the most recent population data, we have decided to endorse the council's final proposal for a council comprising the mayor and eight councillors elected from four wards, this includes a new Kaiwaka-Mangawhai Ward.
45. We believe the proposed name of the new ward is appropriate, enabling residents to more easily identify with the area than the more generic 'Eastern' name suggested by one appellant.

46. In making this determination, we note that Kaiapara District Council was one of the original councils that adopted the STV electoral system when it first became an option in 2004. Given the lapse of time and that the membership of the council has changed completely since then, we believe another review in three years' time would also provide a timely opportunity for the council to consider further the objectives of adopting STV. This should include consideration of the representation arrangements that will best help achieve these objectives such as the number and size of wards.

#### ***Fair representation for electors***

47. 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').
48. The council's proposal for a council comprising the mayor and eight councillors elected from four wards, complies with the rule.

#### ***Communities and community boards***

49. 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.
50. 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?
51. There have been no community boards in Kaipara District since its constitution in 1989 and none of the appellants specifically raised this matter. On this basis we also endorse this aspect of the council's proposal.
52. We note, however, that there was a reasonably strong level of support for community boards in the council's preliminary consultation. We suggest the council, as part of its next review, may wish to consider this option further and to consult particular communities, including those in the eastern area, as to whether it might address some of the concerns raised in the current review.

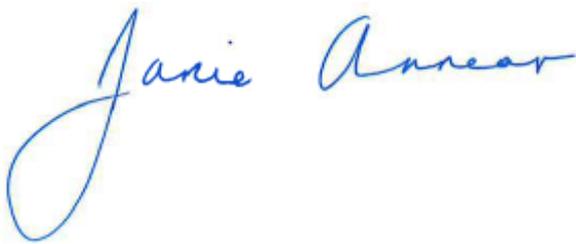
## Commission's determination

53. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of Kaipara District Council to be held on 12 October 2019, the following representation arrangements will apply:
1. Kaipara District, as delineated on Plan LG-003-2019-W-1 deposited with the Local Government Commission, will be divided into four wards.
  2. Those four wards will be:
    - a) Dargaville Ward, comprising the area delineated on SO Plan 70435 deposited with Land Information New Zealand
    - b) West Coast-Central Ward, comprising the area delineated on Plan LG-003-2019-W-2 deposited with the Local Government Commission
    - c) Otamatea Ward, comprising the area delineated on Plan LG-003-2019-W-3 deposited with the Local Government Commission
    - d) Kaiwaka-Mangawhai Ward, comprising the area delineated on Plan LG-003-2019-W-4.
  3. The council will comprise the mayor and 8 councillors elected as follows:
    - a) 2 councillors elected by the electors of Dargaville Ward
    - b) 2 councillors elected by the electors of West Coast-Central Ward
    - c) 2 councillors elected by the electors of Otamatea Ward
    - d) 2 councillors elected by the electors of Kaiwaka-Mangawhai Ward.
54. As required by sections 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.

**LOCAL GOVERNMENT COMMISSION**

A handwritten signature in black ink, appearing to read 'P. Paraone', with a large, stylized initial 'P'.

Commissioner Pita Paraone (Chairperson)

A handwritten signature in blue ink, appearing to read 'Janie Annear', with a large, stylized initial 'J'.

Commissioner Janie Annear

A handwritten signature in black ink, appearing to read 'B. J. Duffy', with a large, stylized initial 'B'.

Commissioner Brendan Duffy

8 April 2019