



LOCAL GOVERNMENT COMMISSION
MANA KĀWANATANGA Ā ROHE

Determination

on a decision of the Thames-Coromandel District Council to adopt representation arrangements for the local authority elections to be held on 8 October 2016 that do not comply with section 19V(2) of the Local Electoral Act 2001

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.
2. Representation 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.
3. The Thames-Coromandel District Council (the council) last reviewed its representation arrangements prior to the 2010 local authority elections. Accordingly it was required to undertake a review prior to the next elections in October 2016.
4. The representation arrangements that applied for the council in 2010 and subsequent 2013 elections, comprised a mayor and 8 councillors elected as follows.

Ward	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	Percentage deviation from district average population per councillor
Coromandel-Colville	2,950	1	2,950	-491	-14.27
Mercury Bay	7,510	2	3,755	+314	+9.13
South-Eastern	6,520	2	3,260	-181	-5.26
Thames	10,550	3	3,517	+76	+2.21
TOTALS	27,530	8	3,441		

*These figures are updated 2014 population estimates.

5. In addition, Thames-Coromandel District has five community boards for Coromandel-Colville, Mercury Bay, Tairua-Pauanui, Whangamata and Thames, each comprising four elected members with the ward councillor(s) also appointed to each board.
6. On 25 March 2015 the council, under sections 19H and 19J of the Act, resolved its initial proposed representation arrangements to apply for the 2016 elections. The proposal was for the retention of existing arrangements i.e. for the council to continue to comprise a mayor and 8 councillors elected from the current four wards. The proposal was also for the retention of the existing five community boards with existing representation arrangements.
7. The council notified its proposal on 2 April 2015 and at the same time noted that the Coromandel-Colville Ward did not comply with the fair representation requirement of section 19V of the Act. The council stated it considered the ward to be “a distinct community of interest isolated by geographical features and as such is deemed to be an isolated community”.
8. A total of 31 submissions were received on the council’s initial proposal by the closing date of 15 May 2015. Of these, 17 supported the proposal including 13 specifically supporting the retention of Coromandel-Colville Ward unchanged. Of the submissions not supporting the proposal, these related primarily to the South-Eastern Ward and its community board arrangements.
9. Following consideration of the submissions, the council on 5 August 2015 resolved to adopt its initial proposal as its final representation proposal.
10. The council notified its final proposal on 14 August 2015 and sought any appeals by 14 September 2015.
11. No appeals were received against the council’s final proposal.
12. The council, however, was required to refer its proposal to the Commission, pursuant to subsection 19V(4) of the Act, as one of its proposed wards (Coromandel-Colville Ward) did not comply with the fair representation requirement of subsection (2).

Legislative requirements

13. Subsection 19V(1) of the Act sets out the requirement for local authorities, and where appropriate the Commission, in determining the number of members to be elected from any ward, to ensure electors receive fair representation. Fair representation is to be determined having regard to the population of the district and of each ward.
14. For the purposes of giving effect to subsection (1), subsection 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 requirement’).
15. Subsection 19V(3) provides that, despite subsection (2), if a territorial authority or the Commission considers one or more of certain prescribed conditions apply, wards may be defined and membership distributed between them in a way that does not comply with subsection (2). The prescribed conditions are:
 - (i) non-compliance is required for effective representation of communities of interest within island or isolated communities situated within the district of the territorial authority

- (ii) compliance would limit effective representation of communities of interest by dividing a community of interest between wards
 - (iii) compliance would limit effective representation of communities of interest by uniting within a ward two or more communities of interest with few commonalities of interest.
16. Subsection 19V(4) requires a territorial authority that decides under subsection (3) not to comply with subsection (2), to refer that decision to the Commission.
 17. Subsection 19V(5) requires the Commission to treat a proposal referred to it under subsection (4), as if it were an appeal against the decision of the territorial authority for the purposes of sections 19R (other than subsection 1(b)), 19S and 19Y. Subsection 19(1)(b) provides that the Commission must determine:
 - (a) in the case of a territorial authority that has made a resolution under section 19H, the matters specified in that section (these matters relate to the basis of election for councillors and the number of councillors to be elected) and
 - (b) in the case of a territorial authority that has made a resolution under section 19J, the matters specified in that section (these matters relate to establishment/retention of community boards and the election of board members).
 18. Subsection 19V(6) requires the Commission on receiving a proposal referred to it under subsection (4), to determine whether:
 - (a) to uphold the decision of the territorial authority, or
 - (b) to alter that decision.
 19. The effect of the above provisions was that the Commission had only to determine whether to uphold or alter the decision of Thames Coromandel District Council not to comply with subsection 19V(2) in respect of the proposed Coromandel-Colville Ward.

Consideration by the Commission

History of Coromandel-Colville Ward

20. The Commission noted that, while there had been some changes to the other wards over the years, Coromandel-Colville Ward has existed, more or less in its same form, since the Thames-Coromandel District was constituted in 1989 (one meshblock was moved in 2004). A community board was also established in 1989 for the area of the ward and continues today.
21. For the 2004 elections, the council proposed reducing the then five wards to two. These were to be an East Coast Ward and a West Coast Ward with the latter combining the existing Coromandel-Colville and Thames wards. There were five appeals and one objection against the council's final proposal.
22. From the appeals relating to Coromandel-Colville Ward, the then Commission identified two themes:
 - (a) the area is isolated within the terms of the Act, and
 - (b) the area has its own distinct community of interest.
23. In its determination, the Commission noted it had received "evidence about the distance of the northern part of the present ward from Thames and, in fact, from the southern part of the ward (and) the Commission was told that the nature of the roads

in that area makes the provision of local government services very difficult and, at times, tenuous". The Commission also noted it had received sufficient evidence to convince it "Coromandel-Colville has a sufficiently distinct community of interest to warrant its retention as a separate ward".

24. The evidence presented to the then Commission was summarised as follows:
 - (a) there is a large distance from the northern communities (Port Charles) of the ward to Thames Ward and Thames township (as Thames township is near the south end of Thames Ward)
 - (b) the nature of the roads within Coromandel-Colville Ward make travelling long distances arduous especially in wet weather (with road closures due to flooding common)
 - (c) the road between Coromandel town and Thames township is very windy, narrow and in many cases is between the shore and cliffs making it more susceptible to closure from accidents and slips. The alternate road to Thames is equally susceptible to closures and would take more than twice the travel time.
25. Based on the evidence provided to it, the Commission at that time determined there would be three wards: Coromandel Peninsula East Ward, as proposed by the council, but that there be separate Thames and Coromandel-Colville wards.
26. At the time of the 2004 review, Coromandel-Colville Ward had sufficient population relative to the rest of the district for it to have one councillor and still comply with the +/-10% fair representation requirement and so an exception, on the grounds of isolation, was not required.
27. In 2010, the council initially proposed to divide Coromandel Peninsula East Ward again, though it also notified an alternate option of retaining it as one ward i.e. status quo arrangements of three wards. The council noted Coromandel-Colville Ward was now outside the +/-10% requirement but that the ward warranted a single member "for the reason that it has previously been identified as an isolated community and that to alter the boundaries to make it comply would result in parts of the ward not having communities of interest".
28. The council subsequently resolved its final proposal involving four wards, with the East Ward divided into Mercury Bay Ward and South-Eastern Ward. It reaffirmed its earlier view that Coromandel-Colville Ward warranted separate representation as an isolated community. No appeals or objections to the council's final proposal were received and accordingly the council's proposal had effect for the 2010 and 2013 elections.

Present communities of interest

29. The Coromandel-Colville Ward is well established as a discrete community of interest having existed since the constitution of Thames-Coromandel District in 1989, along with the community board for the area. The area also has its own service centre.
30. In addition to geographical separation reinforcing its separate identity, the council since 2012 has operated a 'new community governance model' aimed at empowering communities and community boards. Under this model community boards are, among other things, supported to provide local leadership and develop local solutions within their areas; empowered to develop community board plans; and able to develop and approve local policies such as reserve management plans. Clearly these responsibilities are easier to carry out in well-defined and widely understood

jurisdictions. The Coromandel-Colville ward/community board area can be seen to be such a jurisdiction.

31. The 2014-15 Coromandel-Colville community board plan describes the area as “the most remote of the Peninsula, partly because of its rugged topography and the road distance from main centres. Much of the board area is covered in forest park, while the coastline includes many bays and small settlements. The remaining interior and northern tip are both largely undeveloped and sparsely populated”.
32. The Coromandel-Colville ward/community board area is separated from both the Thames area and also the Mercury Bay ward/community board area on the east coast of the peninsula by a range of hills. There are few arterial roads between the areas, with those that do exist following the coast.
33. The wards to the south contain significantly more people, i.e. more than double the population, and are more accessible. As such, the Commission agrees there were strong arguments that Coromandel-Colville Ward can be seen to reflect a discrete community of interest warranting councillor representation.

Options for fair and effective representation

34. Once accepted to be a discrete community of interest, the Commission considered there were few options available to ensure compliance with the +/-10% fair representation requirement. In order for Coromandel-Colville Ward to comply, an area containing approximately 150 people needed to be added given its current over-representation relative to the rest of the district of -14.27%. However doing this would have required splitting another community of interest. This would not result in effective representation of the community of interest required to be split.
35. The alternative was to combine Coromandel-Colville Ward with another ward as proposed by the council in 2004. But as the then Commission concluded, this would not provide effective representation for this discrete community, and it was not now supported by either the council or the community.
36. The argument against combining Coromandel-Colville Ward with another ward related to the Act's principle of providing effective representation for communities of interest. This included, as noted in the Commission's representation review guidelines, consideration of factors such as the ability of elected representatives to effectively represent their electoral area, given in this case it would include areas with few commonalities, and the size and configuration of the area in relation to residents' ability to access their elected representative and vice versa, and to attend public meetings or have the opportunity for face-to-face meetings.

Conclusion

37. The Commission agreed that the existing Coromandel-Colville Ward continues to reflect a discrete community of interest warranting its own councillor representation.
38. Subsection 19V(3) provides that wards may be defined and membership distributed amongst them in a way that does not comply with subsection (2) if, among other things, non-compliance is required for effective representation of communities of interest within isolated communities situated in the district of the territorial authority.
39. The council advised the Commission the reasons for accepting isolation of Coromandel-Colville Ward “have not changed in recent times and the evidence from submissions to the 2004 representation review when the Local Government Commission decided to retain the ward is still relevant”.

40. The Commission agreed that the arguments in respect of isolation still applied to Coromandel-Colville Ward in relation to the remainder of Thames-Coromandel District. Consequently the council's decision to retain this ward with one councillor is justified.

Commission's determination

41. Under section 19R of the Local Electoral Act 2001, the Commission upholds the decision of Thames-Coromandel District Council not to comply with the subsection 19V(2) +/-10% fair representation requirement in respect of Coromandel-Colville Ward, as non-compliance is required for effective representation of communities of interest within isolated communities situated within this ward.
42. Accordingly for the triennial general election of Thames-Coromandel District Council to be held on 8 October 2016, in addition to other arrangements determined by the council, there will continue to be a Coromandel-Colville Ward, comprising the area delineated on SO Plan 57968, electing one councillor.

REPRESENTATION REVIEWS COMMITTEE FOR LOCAL GOVERNMENT COMMISSION



Commissioner Janie Annear (Chair)



Temporary Commissioner Leith Comer



Temporary Commissioner Pauline Kingi

28 January 2016