



Determination

of representation arrangements to apply for
the election of Tasman 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 Tasman 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, the council's initial and final proposals were to retain existing representation arrangements being a council comprising the mayor and 13 councillors elected from five wards, along with two community boards. One appeal against the council's final proposal was received.
4. After considering the appeal, the Commission endorsed the council's proposal. This included two wards that did not comply with the statutory fair representation requirements. 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 district average population per councillor	% deviation from district average population per councillor
Golden Bay	4,950	2	2,475	-1,224	-33.09
Motueka	11,050	3	3,683	-16	-0.43
Moutere-Waimea	13,000	3	4,333	+634	+17.14
Lakes-Murchison	3,540	1	3,540	-159	-4.30
Richmond	15,550	4	3,888	+189	+5.11
Total	48,090	13	3,699		

*Based on Statistics NZ 2011 population estimates

5. The council began its consideration of representation issues and options for its current review at workshops in July 2017, including options on the electoral system and Maori representation, and in February 2018. The council also undertook an online survey with responses varying between 39 and 46 for different questions, with results as follows:
 - 70% (25 respondents) wanted councillors to be elected by ward
 - 81% (29 respondents) wanted council to retain the current wards
 - 64% (25 respondents) felt the ward they lived in reflected their community of interest
 - “mixed views” on community boards i.e. be retained/disestablished/new ones.
6. At a meeting on 24 May 2018, the council adopted its initial representation proposal. The proposal was for the retention of existing representation arrangements, being a council comprising the mayor and 13 councillors elected from five 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
Golden Bay	5,320	2	2,660	-1,277	-32.44
Motueka	12,300	3	4,100	+163	+4.14
Moutere-Waimea	13,500	3	4,500	+563	+14.30
Lakes-Murchison	3,660	1	3,660	-277	-7.04
Richmond	16,400	4	4,100	+163	+4.14
Total	51,180	13	3,937		

*Based on Statistics NZ 2017 population estimate

7. The proposal was also for the retention of the Golden Bay and Motueka community boards both comprising four elected members and two and three appointed members respectively.
8. The council notified its initial proposal on 8 June 2018 and called for submissions by 8 July 2018.
9. In notifying its decision, the council advised two wards did not comply with the +/-10% fair representation requirement with reasons as set out:
 - Golden Bay Ward was treated as an isolated community based on:
 - the Local Government Commission deeming it to be isolated in the previous two reviews
 - it requiring specific representation to provide effective representation
 - it having a clear geographic line that separates the bay from the balance of the district

- weather patterns that vary considerably from the rest of the district and that isolate the bay as shown recently by Cyclone Gita
 - contracts for roading, parks and reserves etc. carried out from depots and staff based in the bay
 - it having a relatively small permanent population which swells considerably during the holiday season
 - reducing the number of members compromises the rural voice and increases the population per members to almost 5,000
 - four distinct settlements within the ward make up the broader community of interest
 - significant distance and travel times within the ward to the council's Richmond office
 - elected members are the 'eyes and ears' of the community and often their first point of contact
 - Moutere-Waimea Ward did not comply based on:
 - three scenarios for compliance being considered (an extended Motueka Ward to include Motueka Valley or to include Tasman/Kina; or an extended Richmond Ward to include Waimea West)
 - both the Motueka Valley Association and Tasman Area Community Association rejected the scenarios for extensions to the Motueka Ward as they did not feel this was their community of interest
 - councillors not favouring an extension of the Richmond Ward as it would split communities of interest
 - Richmond, Motueka and Moutere-Waimea wards are all currently experiencing high growth which makes it difficult to comply as the latest statistics are unavailable for population and meshblocks
 - compliance with the '+/-10% rule' would limit effective representation of communities of interest by dividing a community of interest between wards.
10. The council received 14 submissions on its initial proposal and analysed these as follows:
- 10 supported the initial proposal with two requesting additional delegations for community boards and one requesting councillors' roles be clarified
 - one partially in support, supporting Golden Bay Ward arrangements but opposed to the first past the post electoral system
 - one disagreed people generally understood the current arrangements including councillors' obligation to vote in the best interest of the district not their wards
 - two raised other topics (voting methods, Maori wards, casting vote).
11. At a meeting on 1 August 2018, the council, after considering the submissions, resolved to adopt its initial proposal as its final representation proposal.
12. The final representation proposal was notified on 18 August 2018 and appeals invited by 18 September 2018. No appeals have been received.

13. In accordance with section 19V(4) of the Act, the council has referred its decision not to comply with the statutory +/-10% fair representation in respect of two wards to the Commission for determination.

Matters for determination by the Commission

14. Section 19V(3)(a) of the Act 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.
15. Section 19V(4) then provides that in such a case, the territorial authority must refer its decision to the Commission for determination.
16. Section 19V(6) provides that on receiving a reference under subsection (4), the Commission must determine whether to:
 - a) uphold the decision of the territorial authority, or
 - b) alter that decision.
17. Accordingly, the matters for determination by the Commission are limited to the council's decision to retain the current Golden Bay and Moutere-Waimea wards with their current membership despite these wards not complying with the '+/-10% rule'. It is noted, however, that if the Commission does not uphold the council's decision, alteration of that decision may impact on the other ward arrangements.

Key considerations

18. 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

19. 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.
20. 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.
21. 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.
22. In the case of Tasman District, the district was constituted in 1989 as a territorial authority that then became a unitary authority in 1992 following the disestablishment of the Nelson-Marlborough Regional Council. Since that time five broad communities of interest have been recognised in the district: Golden Bay, Motueka, Lakes-Murchison, Moutere-Waimea and Richmond.

Effective representation of communities of interest

23. 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).
24. ‘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).
25. 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.
26. Tasman District has had a ward system of representation since 1989 and the present five wards, established in 1992, can be seen to be very familiar to residents. As noted, there was strong support in the online survey for retention of a ward system of representation. There was also a lack of opposition to the proposed ward arrangements in the council's initial proposal.

Fair representation for electors

27. 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').
28. However, as noted, section 19V(3) provides discretion for a territorial authority or the Commission to define wards and distribute membership among them in a way that does not comply with subsection (2).
29. The council has undertaken two previous reviews of its representation arrangements, in 2007 and 2013, since the enactment of the Local Electoral Act in 2001. In both reviews the council's final proposal was the subject of appeals and final arrangements were determined by the Commission.
30. In 2007, the Commission determined that Golden Bay was an isolated community of interest. This was based on its geographical separation from the rest of Tasman District, the limited road access (over Takaka Hill) which can be susceptible to closure as a result of weather conditions, and the distance to the council offices in Richmond (at least a 1.5 hours' drive). As a result, a population to councillor ratio outside of +/-10% was accepted for the Golden Bay Ward by the Commission. In 2013 the Commission agreed that Golden Bay remained an isolated community of interest and again an exception to the '+/-10% rule' was endorsed for the ward.
31. In its current review the council is proposing the retention of Golden Bay Ward, represented by two councillors, with a population/councillor ratio again outside the '+/-10% rule' (32.44%). We note the council's reasoning for again seeking approval for non-compliance with the '+/-10% rule' for Golden Bay Ward, and we agree Golden Bay remains an isolated community. In addition, compliance with the '+/-10% rule' would limit its effective representation by dividing communities of interest between wards.
32. Accordingly, we uphold the decision of the council for Golden Bay Ward not to comply with the '+/-10% rule'.
33. It is noted that the wording of section 19V(3)(a) is such that once it is agreed that one ward may be outside the '+/-10% rule', then wards and their membership may *generally* also be outside the permitted range while the principle of fair and effective representation does still apply. This is on the understanding that some compensation for the accepted non-compliance may be required.

34. In light of this, we could proceed to uphold the council's proposal for the Moutere-Waimea Ward to also be outside the permitted range. We note, however, the council did consider a number of options to achieve compliance in respect of this ward. These involved two possible extensions to Motueka Ward and one possible extension to Richmond Ward.
35. The council consulted community groups in the areas concerned and all three possible boundary alteration options were rejected on the basis of not splitting communities of interest between wards.
36. Given the longevity of the current representation arrangements and their resulting familiarity to residents, we believe they can be seen as assisting achievement of effective representation of communities of interest. On the other hand, changing these arrangements is likely to create barriers to participation and split recognised communities of interest. As noted, no appeals have been received against the council's proposed ward boundaries.
37. In light of the above, we have determined also to uphold the council's proposal for Moutere-Waimea Ward not to comply with the '+/-10% rule'.

Commission's determination

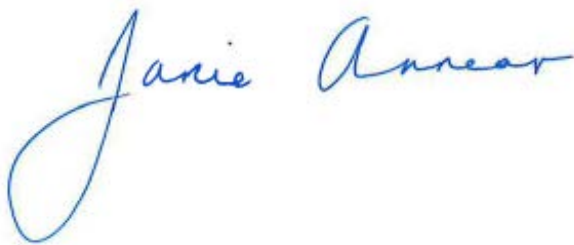
38. Under section 19R of the Local Electoral Act 2001, the Commission upholds the decision of Tasman District Council not to comply with the section 19V(2) +/-10% fair representation requirement in respect of:
 - a) Golden Bay Ward as non-compliance is required for effective representation of isolated communities of interest within this ward
 - b) Moutere-Waimea Ward, as compliance would limit effective representation by dividing communities of interest between wards.
39. Accordingly, for the general election of Tasman District Council to be held on 12 October 2019, there will continue to be Golden Bay and Moutere-Waimea wards, electing two and three councillors respectively.
40. Therefore, for those elections for Tasman District Council, the following representation arrangements will apply:
 1. Tasman District, comprising the area delineated on SO Plan 14462 deposited with Land Information New Zealand, will be divided into five wards.
 2. Those five wards will be:
 - a) Golden Bay Ward, comprising the area delineated on SO Plan 14463 deposited with Land Information New Zealand
 - b) Motueka Ward, comprising the area delineated on SO Plan 14464 deposited with Land Information New Zealand
 - c) Moutere-Waimea Ward, comprising the area delineated on SO Plan 14933 deposited with Land Information New Zealand
 - d) Lakes-Murchison Ward, comprising the area delineated on SO Plan 386473 deposited with Land Information New Zealand
 - e) Richmond Ward, comprising the area delineated on SO Plan 14466 deposited with Land Information New Zealand.

3. The council will comprise the mayor and 13 councillors elected as follows:
 - a) 2 councillors elected by the electors of Golden Bay Ward
 - b) 3 councillors elected by the electors of Motueka Ward
 - c) 3 councillors elected by the electors of Moutere-Waimea Ward
 - d) 1 councillor elected by the electors of Lakes-Murchison Ward
 - e) 4 councillors elected by the electors of Richmond Ward.
 4. There will be two communities as follows:
 - a) Golden Bay Community, comprising the area of Golden Bay Ward
 - b) Motueka Community, comprising the area of Motueka Ward.
 5. The membership of each community board will be as follows:
 - a) Golden Bay Community Board will comprise four elected members and two members representing Golden Bay Ward appointed to the community board by the council
 - b) Motueka Community Board will comprise four elected members and three members representing Motueka Ward appointed to the community board by the council.
41. 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

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

Commissioner Brendan Duffy

8 April 2019