



Determination

of representation arrangements to apply for the election of the
Whakatane District Council to be held on 8 October 2022

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. 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.
2. The Whakatane District Council (the council) last reviewed its representation arrangements prior to the 2016 local authority elections. Accordingly, it was required to undertake a review prior to the next elections in October 2022.
3. On 20 May 2021 the Council resolved to establish one or more Māori wards for the 2022 triennial elections. In addition this triggered the need for the Council to undertake a representation review.
4. The Commission last made a determination in relation to Whakatane District Council Council's representation in 2016. The council's current representation arrangements have been in place since and are as follows:
 - (a) a Council comprising 10 members elected from four wards (Rangitāiki, Galatea-Murupara, Taneatua-Waimana and Whakatāne-Ōhope), plus the Mayor elected at large
 - (b) Four community boards, being:
 - Rangitāiki Community Board (six elected members and one appointed member)
 - Murupara Community Board (six elected members from three subdivisions and one appointed member)
 - Tāneatua Community Board (six elected members and one appointed member)
 - Whakatāne-Ōhope Community Board (eight elected members and two appointed member)

Current review

5. On 17 August 2021 the Council resolved its initial representation proposal as follows:
 - (a) a Council comprising 10 members, seven elected from three general wards and three elected from three Māori wards, plus the Mayor
 - (c) Four community boards, being:
 - Rangitāiki Community Board (six elected members and one appointed member)
 - Whakatāne-Ōhope Community Board (six elected members and one appointed member)
 - Tāneatua Community Board (six elected members and one appointed member)
 - Murupara Community Board (six elected members from three subdivisions and one appointed member)
6. With the decision to establish one or more Māori wards and the subsequent separation of the Māori and General Electoral Populations, it was established that the existing representation arrangements were no longer compliant.
7. The Council received 30 submissions on its initial proposal. Twenty-two submissions were either in full or partial support of or neutral towards the council's initial proposal. Seven submissions did not support the proposal. Some submissions were outside the scope of the review.
8. As a result of the submissions received the Council resolved to adopt its initial proposal with the following amendments:
 - The proposed "Whakatane-Ōhope Māori Ward" be renamed to "Kapu te rangi Māori Ward"
 - The proposed "Tāneatua Communities Community Board" be renamed to "Tāneatua Community Board"
 - Transfer four meshblocks that represent the area of Waiōhau from the "Rangitāiki Māori Ward" to the "Toi ki uta Māori Ward"
 - Transfer one meshblock that represents the area of Te Mahoe from the "Te Urewera General Ward" to the "Rangitāiki General Ward"
9. The Council rejected other matters raised in submissions for the following reasons:
 - Increasing the number of members and wards, and the combination thereof, and the request for general and Māori wards to follow the same boundaries would not provide fair and effective representation across the District
 - The Local Electoral Act 2001 prohibits local councils from initiating binding polls on whether or not to establish Māori wards
 - Transferring the area between Golf Links Road and Shaw Road to the Rangitāiki General Ward would not provide effective representation of the communities of interest of that area
 - Having two councillor appointees on each community board would not provide effective representation

- Ensuring candidates standing in Māori wards must be of Māori descent is outside the mandate of the review and the Act

10. The Council adopted its final representation proposal on 11 November 2021 for a Council comprising 10 members, seven elected from three general wards and three elected from three Māori wards, plus the Mayor, 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
Rangitāiki General Ward	6,930	2	3,465	-122	-3.41%
Whakatāne-Ōhope General Ward	14,900	4	3,725	+138	+3.84%
Te Urewera General Ward	3,280	1	3,280	-307	-8.56%
Total General Wards	25,110	7	3,587		
Rangitāiki Māori Ward	3,820	1	3,820	-543	-12.45
Kapu te rangi	4,570	1	4,570	+207	+4.74
Toi ki Uta	4,700	1	4,700	+337	+7.72
Total Māori Wards	13,090	3	4,363		

*Based on 2020 Census data

11. Four community boards, each comprised of six elected members and one appointed member, as follows:

- Rangitāiki Community Board
- Whakatāne-Ōhope Community Board
- Tāneatua Community Board
- Murupara Community Board

12. The Murupara Community will be subdivided for electoral purposes as follows:

Subdivision	Population*	Number of member	Population per member	Deviation from district average population per member	% deviation from district average population per member
Galatea-Waiōhau	1,100	2	550	-40	-6.78
Murupara	1,910	3	636	+47	+7.91
Te Urewera	530	1	530	-60	-10.17
Total	3,540	6	590		

*Based on 2020 Census data

13. No appeals or objections were received to the final proposal, however, the Council was required by section 19V(4) of the Act to refer its proposal to the Commission for determination as Rangitāiki Māori Ward and the Te Urewera Subdivision of the Murupara Community do not comply with the fair representation requirement of subsection (2), i.e. the '+/-10% rule'. The Council believed the final representation arrangements provide fair and effective representation to best serve its communities of interest. The majority of submissions also supported the final arrangements.

Matters for determination by the Commission

14. Section 19V(3) provides that, despite subsection (2), if a territorial authority or the Commission considers one or more of certain prescribed conditions apply, subdivisions may be defined and membership distributed between them in a way that does not comply with subsection (2). The prescribed conditions are:
- (a) non-compliance is required for effective representation of communities of interest within island 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 subdivisions
 - (c) compliance would limit effective representation of communities of interest by uniting within a subdivision two or more communities of interest with few commonalities of interest.
15. Section 19V(6) provides that on receiving a reference under subsection (4), the Commission must determine whether to:
- (a) uphold the decision of the council, or
 - (b) alter that decision.
16. Accordingly, the matters for determination by the Commission are limited to the council's decision to establish the Rangitāiki Māori Ward and retain Te Urewera Subdivision of the Murupara Community, despite not complying with the '+/-10% rule'.

Key considerations

17. Based on the legislative requirements, the Commission's *Guidelines for local authorities undertaking representation reviews* identify the following three key factors when considering representation proposals:
 - a. communities of interest
 - b. effective representation of communities of interest
 - c. fair representation for electors.

Communities of interest

18. The Guidelines identify three dimensions for recognising communities of interest:
 - a. *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
 - b. *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
 - c. *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.
19. 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.
20. Through its process, the Council identified its district communities of interest as being defined by:
 - a. Business, commercial and community hubs (Edgecumbe, Matatā, Te Teko, Whakatane, Tāneatua, Rūātoki, Ōhope, Murupara)
 - b. Rohe of the six main Iwi (Tūhoe, Ngāti Rangitihi, Ngāti Whare, Ngāti Manawa, Ngāti Awa, Ngāti Tūwharetoa ki Kawerau)
 - c. Maunga and Awa (landmark features that Iwi whakapapa to)
 - d. Rural/farming
 - e. Forestry/conservation
 - f. Coastal/lifestyle/horticulture.
21. From these the Council identified the groupings of communities of interest that it considered should comprise wards.

Effective representation and fair representation

22. Section 19T of the Act requires the Commission to ensure that:
 - a. the election of members of the council, in one of the ways specified in section 19H (i.e. at large, wards, or a combination of both) will provide effective representation of communities of interest within the district
 - b. ward boundaries coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes
 - c. so far as is practicable, ward boundaries coincide with community boundaries (where they exist).
23. 'Effective representation' is not defined in the Act, but the Commission sees this as requiring consideration of factors including an appropriate number of elected members and an appropriate basis of election of members for the district concerned (at large, wards, or a mix of both).
24. The Commission's Guidelines note that what constitutes effective representation will be specific to each local authority but that the following factors should be considered:
 - 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.

Fair representation for electors

25. For the purpose of achieving fair representation for the electors of a district, section 19V(1) 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').
26. However, section 19V(3)(a) permits non-compliance with the '+/-10% rule' for territorial authorities in some circumstances. Those circumstances are where:
 - a. non-compliance is required for effective representation of communities of interest within island communities or isolated communities
 - b. compliance would limit effective representation of communities of interest by dividing a community of interest
 - c. compliance would limit effective representation of communities of interest by uniting two or more communities of interest with few commonalities.

Rangitāiki Māori Ward

27. The council's proposal does not comply with the '+/-10% rule' for the Rangitāiki Māori Ward which sits at -12.45%.
28. In the council's initial proposal this ward was non-compliant at -10.15%. In response to submissions the Council agreed to transfer four meshblocks of the Waiōhau area out of this ward into the Toi ki Uta Māori Ward, to recognise traditional linkages with landmarks of significance to Patuheuheu and Ngāti Haka.
29. The non-compliance equates to 52 people short of being within the range of population each member represents. The population of Rangitāiki Māori Ward is 3,228 and the range per member is 3,280 to 3,945. In the case of Māori wards compliance with the '+/-10% rule' is subject to having regard to communities of interest and iwi affiliations (see clause 6, Schedule 1A of the Act).¹
30. Given the reason for the change between the Council's initial and final proposals and the size of the population involved, the Commission is comfortable to uphold the council's proposal.

Te Urewera subdivision of the Murupara Community

31. The council's proposal does not comply with the '+/-10% rule' for the Te Urewera subdivision of the Murupara community which sits at -10.17%. However, this non-compliance equates to being one person short of falling within the range of population each member represents. The population of Te Urewera is 530 and the range per member is 531 to 649. Given the insignificance of this non-compliance and the fact that the population estimates used are rounded to the nearest 10, the Commission is comfortable to uphold the council's proposal. Any alternative would likely have resulted in either splitting some communities of interest and grouping other communities of interest with few commonalities.

Conclusion

32. Our examination of the Council's proposed non-compliant ward and subdivision leads us to agree with the Council that they do reflect communities of interest, and that the changes proposed to existing boundaries do better reflect those communities of interest. It follows that changing boundaries to ensure compliance would result in dividing communities of interest and in uniting communities of interest with few commonalities.
33. In each case the level of non-compliance seems reasonable compared to the consequences of alternative arrangements for communities of interest and their effective representation.
34. In summary, we consider the Council's proposal for the Rangitāiki Māori Ward and the Te Urewera Subdivision of the Murupara Community not complying with the '+/- 10% rule' should be upheld. The reasons being that compliance with the '+/- 10% rule' in this case would limit the effective representation of communities of interest by either splitting communities of interest or uniting communities of interest with few commonalities.

¹ This is in addition to the grounds for non-compliance set out in section 19V(3) of the Act.

Commission's determination

35. Under section 19R of the Local Electoral Act 2001, the Commission upholds the decision of the Whakatāne District Council not to comply with section 19V(2) in respect of the Rangitāiki Māori Ward and the Te Urewera Subdivision of the Murupara Community, as compliance would limit effective representation of communities of interest by dividing a community of interest between subdivisions or uniting within a subdivision two or more communities of interest with few commonalities of interest.
36. Therefore, for at least those elections for Whakatāne District Council to be held on 8 October 2022, the following representation arrangements will apply:
- (a) Whakatane District, as delineated on LG-025-2022-W-1 is divided into three Māori Wards and three General Wards.
 - (b) Those six wards will be:
 - (i) Rangitāiki Māori Ward comprising the area delineated on LG-025-2022-W-2
 - (ii) Kapu te rangi Māori Ward comprising the area delineated on LG-025-2022-W-3
 - (iii) Toi ki Uta Māori Ward comprising the area delineated on LG-025-2022-W-4
 - (iv) Rangitāiki General Ward comprising the area delineated on LG-025-2022-W-5
 - (v) Whakatāne-Ōhope General Ward comprising the area delineated on LG-025-2022-W6
 - (vi) Te Urewera General Ward comprising the area delineated on LG-025-2022-W7
 - (c) The Council will comprise the mayor and 10 councillors elected as follows:
 - (i) 1 councillor elected by the electors of Rangitāiki Māori Ward
 - (ii) 1 councillor elected by the electors of Kapu te rangi Māori Ward
 - (iii) 1 councillor elected by the electors of Toi ki Uta Māori Ward
 - (iv) 2 councillors elected by the electors of Rangitāiki General Ward
 - (v) 4 councillors elected by the electors of Whakatāne-Ōhope Ward
 - (vi) 1 councillor elected by the electors of Te Urewera General Ward
 - (d) There will be four communities in Whakatane District as follows:
 - (i) the Rangitāiki Community comprising the area of Rangitāiki General Ward.
 - (ii) the Whakatāne-Ōhope Community comprising the area of Whakatāne-Ōhope General Ward
 - (iii) the Tāneatua Community, comprising the area delineated on LG-025-2022-Com-1

- (iv) the Murupara Community, comprising the area delineated on LG-025-2022-Com-2
 - (e) The Murupara Community will be subdivided for electoral purposes as follows:
 - (i) the Galatea-Waiohau Subdivision, comprising the area delineated on LG-025-2022-S-1
 - (ii) the Murupara Subdivision, comprising the area delineated on SO Plan 334319
 - (iii) Te Urewera Subdivision comprising the area delineated on SO 334321
 - (f) For the Rangitāiki Community, there will be a Rangitāiki Community Board comprising:
 - (i) six members elected by the electors of the community as a whole
 - (ii) one member appointed to the community board by the Council
 - (g) For the Whakatāne-Ōhope Community, there will be a Whakatāne-Ōhope Community Board comprising:
 - (i) six members elected by the electors of the community as a whole
 - (ii) one member appointed to the community board by the Council.
 - (h) For the Tāneatua Community, there will be a Tāneatua Community Board comprising:
 - (i) six members elected by the electors of the community as a whole
 - (ii) one member appointed to the community board by the Council.
 - (i) For the Murupara Community, there will be a Murupara Community Board comprising:
 - (i) Six members elected as follows:
 - 2 members elected by the electors of Galatea-Waiohau Subdivision
 - 3 members elected by the electors of Murupara Subdivision
 - 1 member elected by the electors of Te Urewera Subdivision
 - (ii) one member appointed to the community board by the Council.
37. 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.

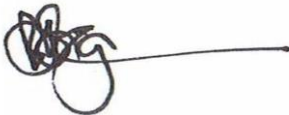
Local Government Commission



Commissioner Brendan Duffy (Chair)



Commissioner Janie Annear



Commissioner Bonita Bigham



Commissioner Sue Piper

4 April 2022