



## **Determination**

on a decision of the Whangarei District Council to adopt  
representation arrangements for the local authority elections  
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 Whangarei District Council (the council) last reviewed its representation arrangements prior to the 2019 local authority elections. In November 2020 it resolved to establish a Māori ward. Accordingly, it was required to undertake a review prior to the next elections in October 2022.
3. At the time of the last review the Council's initial and final proposals were to retain the status quo arrangements of a mayor and 13 councillors elected from six wards, subject to two minor ward boundary alterations between Okara and Bream Bay wards and between Hikurangi-Coastal and Denby wards. The proposal was also for no community boards to be established in the district.
4. One appeal was received, seeking the removal of the ward system of representation. Following consideration of the appeal, the Commission endorsed the Council's final proposal.
5. Consequently, for the 2019 elections, the council comprised a mayor and 13 councillors elected as follows:

Ward	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Hikurangi-Coastal	12,510	2	6,255	-646	-9.36
Whangarei Heads	6,930	1	6,930	+29	+0.42
Denby	22,140	3	7,380	+479	+6.94
Okara	29,210	4	7,303	+402	+5.83
Mangakahia-Maungatapere	6,330	1	6,330	-571	-8.27
Bream Bay	12,590	2	6,295	-606	-8.78
<b>Total</b>	<b>89,710</b>	<b>13</b>	<b>6,901</b>		

\*Based on Statistics NZ 2017 population estimate

## Current review: Council process and proposal

### *Preliminary consultation*

6. Prior to resolving its initial proposal, the Council undertook informal community and hapū consultation, including a community survey, to seek community views on communities of interest and preferred representation arrangements.
7. The representation review process and community feedback were discussed at a series of briefings between March and June 2021 with the Council and the Te Kārearea Strategic Partnership Committee. Te Kārearea is a partnership committee of the Council and Te Huinga (advocates of the hapū of Whangarei).
8. During preliminary briefings and hui, Te Kārearea and Te Huinga indicated support for a single district-wide Māori ward.
9. The Council summarised the informal survey results as leaning “towards a ward system for the district, retaining the current ward structure (with the establishment of Māori wards) and number of councillors. Survey participants were evenly divided on whether to establish Community Boards.”<sup>1</sup>
10. Following consultation the Council identified the following two options for further consideration:
  - a. A modified status quo of 13 councillors and six wards, comprising 11 councillors elected by five general wards, two councillors elected by one district-wide Māori ward, and no community boards. This option was preferred by the Council.

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<sup>1</sup> Representation Review 2021 – Initial Proposal, officer report to Whangarei District Council, 24 June 2021

- b. Eight councillors and two wards, comprising six councillors elected by a district-wide general ward, two councillors elected by a district-wide Māori ward, and community boards to be established. This option was preferred by Te Kārearea and Te Huinga.

### *The Council's initial proposal*

11. On 24 June 2021 the council resolved as its initial representation proposal a council comprising 13 members elected from six wards, plus the mayor. The Council also resolved not to establish community boards.
12. The initial proposed ward arrangements were as follows:

Ward	Electoral population estimate*	Number of councillors per ward	Population per councillor	Deviation from district average pop <sup>n</sup> per councillor	% deviation from district average pop <sup>n</sup> per councillor
Hikurangi-Coastal General	13,400	2	6,700	-530	-7.33%
Whangārei Heads General	7,170	1	7,170	-60	-0.83%
Mangakahia-Maungatapere General	7,560	1	7,560	330	+4.56%
Bream Bay General	13,300	2	6,650	-580	-8.02%
Whangārei Urban General	38,100	5	7,620	390	+5.39%
<b>Total General</b>	<b>79,530</b>	<b>11</b>	<b>7,230</b>		
Whangārei Māori	18,730	2	9,365	N/A	N/A
<b>Total</b>	<b>98,260</b>	<b>13</b>			

\*Based on Tatauranga Aotearoa Stats NZ 2020 electoral population estimates

13. The Council notified its proposal on 30 June 2021 and received 61 submissions by the deadline of 26 August 2021.
14. Of these, 15 submissions supported or were neutral on the Council's initial proposal, 43 did not support all aspects of the proposal, and three did not answer this question.
15. Key themes in the submissions were:
- In general, agreement with the proposed number of councillors.
  - Opposition to boundary changes for wards because of the perceived splitting of communities of interest around the Whangārei urban fringe.
  - Majority support for the proposal to combine the existing urban Okara and Denby Wards into one Whangārei Urban General Ward, with some opposition due to perceived imbalances in the split of rural and urban ward councillors.
  - Majority support for the proposal for a single district-wide Whangārei District Māori Ward, noting some calls for additional Māori wards or Māori ward councillors.
  - Majority support for the proposal that no community boards be established.

- f. Six submissions requested that all councillors be elected by two wards, being one district-wide general ward and one district-wide Māori ward. Three submissions requested voting at large, which is not possible in a model with a Māori ward.<sup>2</sup>

16. On 31 August 2021 the Council met to deliberate on submissions and confirmed its agreement with an officer recommendation to alter proposed ward boundaries in response to submissions. The recommended alterations included retaining the Toe Toe Road, Springs Flat, and Maunu areas within the Whangārei Urban General Ward. The initial proposal to move the southern part of Cemetery Road into the proposed Mangakahia-Maungatapere General Ward from the existing Bream Bay Ward was retained.
17. Council officers recommended the following final proposal<sup>3</sup>:

Ward	2020 population estimate*	Number of councillors	Population per councillor	Deviation from district average GEP per councillor	% deviation from district average GEP per councillor
Hikurangi-Coastal General	11,600	2	5,800	-1,385	-19.27%
Whangārei Heads General	7,130	1	7,130	-55	-0.76%
Mangakahia-Maungatapere General	6,400	1	6,400	-785	-10.92%
Bream Bay General	13,100	2	6,550	-635	-8.83%
Whangarei Urban General	40,800	5	8,160	975	+13.58%
<b>Total general</b>	<b>79,030</b>	<b>11</b>	<b>7,185</b>		
Whangārei Māori	18,800	2	9,400	N/A	N/A
<b>Total</b>	<b>97,830</b>	<b>13</b>			

\*Based on Tatauranga Aotearoa Stats NZ 2020 electoral population estimates (updated since initial proposal)

### ***The Council's final proposal***

18. At a meeting on 7 September 2021, the Council amended its initial proposal to the following final proposal for the 2022 local elections:

<sup>2</sup> Technical note: The Council papers and submitters use the same term “at large” to describe two distinct systems: at large voting (an arrangement with no wards), and voting by district-wide ward. Where submitters have identified a preference for both “at large” voting and the Māori ward arrangements, they have been classified as actually supporting voting by district-wide general ward.

<sup>3</sup> The Stats NZ 2020 population estimates differ slightly from those used in the Council officers’ 7 September 2021 report to Whangarei District Council *Representation Review 2021 – Final proposal*, which used in-house population estimates based on 2018 population data

- a. The mayor elected at large plus 12 councillors elected by two wards:
    - Ten councillors elected by a district-wide Whangarei District General Ward
    - Two councillors elected by a district-wide Whangarei District Māori Ward
  - b. No community boards
19. The final proposal was publicly notified on 10 September 2021.

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

20. Four appeals and 118 objections received on the Council's final proposal were considered valid or partially valid and covered the following matters:
- a. Concern about the loss of wards as a means of representation for communities below the district level with 114 appeals and objections saying the final proposal does not ensure representation for rural and coastal communities of interest.
  - b. Among those supporting a geographic basis of representation, three objectors ask to retain 13 councillors without expanding further, and one proposes increasing the number of councillors to 14 to accommodate an additional urban ward councillor, arguing that the population growth skews towards the urban area.
  - c. Among those supporting a district-wide basis of representation for the GEP, two appellants propose a reduction to nine, eight or seven councillors on the basis that it will support more efficient decision-making. One appellant also argues that it will increase remuneration per councillor thereby attracting a wider range of candidates.
  - d. One appellant and one objector propose alternative representation arrangements, as follows:
    - Three wards, one rural electing five councillors, one urban electing five councillors, and one Māori electing two councillors on the basis that this would at least preserve dedicated representation for rural communities.
    - A mixed wards/at large model, noting that the objector did not provide detail on the preferred number of wards, nor the number of councillors to be elected under each system.
21. The Council referred the appeals and objections to the Commission, in accordance with section 19Q of the Act.

### **Hearing**

22. The Commission met with the Council and the 19 appellants and objectors who wished to be heard at a hearing held online on Friday 10 December 2021. The Council was represented at the hearing by Mayor Sheryl Mai, and Deputy Mayor Gregg Innes.

23. The following appellants and objectors appeared at the hearing:
- a. Cory Haslam
  - b. Federated Farmers represented by Colin Hannah, Provincial President Northland and Shaun Hazelton, Policy Advisor
  - c. Vince Cocurullo
  - d. Jeroen Jongejans
  - e. Denis Anderson
  - f. Mary McDonald
  - g. Greg Martin
  - h. Phil Halse
  - i. Frank Newman, also representing The Landowners Coalition Inc, Better! Whangarei, and Democracy Northland
  - j. Warren Daniel
  - k. Jan Pirihi
  - l. Neil McLeod, also representing Waipu Riding Residents Association
  - m. John Williamson
  - n. Margaret Hicks
  - o. Ian Reeves
24. Denis Anderson was also to appear but could not due to unforeseen circumstances. The Commission Chair confirmed that commissioners had read his written objection.

### ***Matters raised at hearing***

25. Mayor Sheryl Mai, supported by Deputy Mayor Greg Innes, explained the process the Council had followed in carrying out its representation review and reaching its final proposal. They emphasised the following points:
- a. In the context of wide scale sector reform and review, this representation review offered a seminal moment to effect change.
  - b. The initial proposal was flawed as it placed urban communities of interest into rural and coastal wards in order to comply with the fair representation '+/- 10% rule'. There was strong feedback against this from the community.
  - c. The Council's final proposal was supported by some submissions, removes the need to comply with the '+/-10% rule', provides the same representation model for the general electoral population (GEP) and the Māori electoral population (MEP), and provides democratic equity among the GEP by allowing them to vote for 10 councillors across the district.
  - d. Whangarei is in a period of strong growth, projected at 1.5% per annum for the next 30 years. The district is also urbanising as a result of population flowing from Auckland.

- e. The council officers' recommended final arrangements would have produced wards ranging from approximately -20% over-represented to +14% under-represented.
  - f. The requirement for councillors to declare, on entering office, that they will act "in the best interests of the district" meant that on occasion, some ward councillors had found that specific ward-related issues could not be addressed.
  - g. There may be some challenges of effective representation in the proposed arrangement if there are not mechanisms in place to support strong local engagement. In hindsight, a smaller council with community boards as preferred by Te Kārearea may have bridged the gap between district wide representation and the representation of local communities.
  - h. The Council had a lack of experience and history with community boards. The Council was divided on the issue and community boards were not supported in the final proposal. However, there was support from small communities for community boards.
  - i. There was a belief that the ability for people to stand district-wide provided the opportunity for voters to vote for representatives who would represent their position and values, and to better address urbanisation issues.
  - j. The Council acknowledged that FPP was most appropriate for a geographic basis of representation (multiple general wards).
  - k. Some elected members had heard from the community, outside of the representation review's consultation, that they preferred a district-wide general ward. There was no formal evidence of this feedback.
  - l. In the Council's view, the Act limits consultation by requiring councils to select only one representation option as the initial proposal for formal consultation.
  - m. Some current ward councillors live outside the wards they represent but represent their community effectively, suggesting that councillors elected district-wide could also represent the needs of diverse communities.
  - n. Over the next 10 years, the Council is expecting significant growth around the urban area and in the inner city, Waipu, One Tree Point and in coastal nodes.
26. The appellants and objectors appearing at the hearing emphasised the following points in opposition to the Council's proposal:
- a. The majority of submissions on the Council's initial proposal indicated support for multiple general wards.
  - b. Suggestions that the community was unaware a district-wide general ward was a possibility under consideration, noting that the Council's public consultation document specifically stated that a district-wide general ward did not take communities of interest into account.
  - c. Concern that councillors elected district-wide would be unlikely or unable to engage with distinct communities of interest, understand their issues, and represent their view.

- d. Concern that voting by a district-wide general ward will result in representation being skewed towards urban voters.
- e. Voting by district-wide general ward can only provide for effective representation with the Single Transferable Vote (STV) electoral system, whereas Whangarei District uses First Past the Post (FPP).
- f. While councillors are required to act in the interest of the district as a whole, the strength of the ward system is that a ward councillor speaks on behalf of their local community, regardless of how that councillor votes.
- g. There is no evidence to suggest district-wide voting increases voter engagement.
- h. Non-compliance with the '+/-10% rule' was not sufficient reason to remove general wards.
- i. Wards can be parochial as councillors need to reflect their ward's interests in order to be re-elected, whereas councillors elected district-wide can represent district-wide communities of interest.
- j. A lack of certainty that community boards would be effective at influencing Council decisions.
- k. Suggestions that community boards would only provide another layer of representation, would be appropriate only with a reduced number of councillors, and would require further consultation with the community.
- l. The cost and difficulty of campaigning district-wide would be a barrier to many potential candidates, and an opposing view that the increased use of technology would reduce the cost and improve the ease of campaigning district-wide.

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

27. 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.
28. The Council's review process is not one of the matters set out in sections 19H and 19J. Any concerns expressed by appellants and objectors relating to the council's review process are not a basis for the Commission to overturn a council's proposal. The Commission may, however, comment on a council's process as part of its determination.
29. The matters in the scope of the review are:
  - whether the council is to be elected from wards, the district as a whole, or a mixture of the two
  - the number of councillors



- if there are to be wards, the area and boundaries of wards and the number of members to be elected from each ward
  - whether there are to be community boards
  - if there are to be community boards, the area and boundaries of their communities, and the membership arrangements for each board.
30. Appeals/objections to the Council’s final proposal raise the following overarching issues for the Commission to resolve:
- a. Whether a single district-wide general ward or a geographic basis, or a mixture of the two provides the most effective representation for the district’s general electoral population and subsequently:
    - i. If a district-wide general ward is considered most effective, what if any sub-district representation is required?
    - ii. If a geographic basis is considered most effective, what should the general ward arrangement be and does the requirement for fair representation of communities of interest raise any compliance issues?
  - b. What number of councillors provides for the most effective representation?
  - c. What alternative representation models are proposed, and can they reasonably be considered at this stage in the review process?

## Key considerations

31. Based on the legislative requirements, the Commission’s *Guidelines for local authorities undertaking representation reviews* (the Guidelines) 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

32. 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.
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 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 its 2019 determination for Whangarei District, the Commission recommended that in its next review, the Council work to understand the current communities of interest to identify the best representation arrangements, in light of an appeal proposing an at large arrangement. For this review council officers undertook what appears to be a reasonably comprehensive approach to identifying communities of interest as outlined earlier. Overall, the feedback from the Council's preliminary and formal consultation identified little change to the communities of interest identified in 2019, being urban (residential, commercial, industrial), rural agricultural, and coastal.
36. There is no question that there are distinct communities of interest in the district and this was a clear theme of views expressed at the Commission's hearing. The Council itself recognised this distinction in resolving its initial proposal, in resolving its direction to council officers for a final proposal, and in their comments at the hearing about how a local voice could be retained in the proposed arrangements.

## Effective representation of communities of interest

37. 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).
38. '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).
39. 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.
40. Within the scope of a representation review, councils can achieve effective representation of communities of interest by having members elected by wards, at large, a mixture of wards and at large. As the Whangarei District Council has resolved to establish Māori wards, it must also establish at least one general ward.
  41. While not a prescribed statutory requirement, the Guidelines suggest that local authorities consider the total number of members, or a range in the number of members, necessary to provide effective representation for the district as a whole. In other words, the total number of members should not be arrived at solely as the product of the number of members per ward, if there are to be wards.
  42. Section 19A of the Act provides that a territorial authority shall consist of between 5 and 29 members, excluding the mayor. Whangarei District Council comprised a mayor and 13 councillors on its constitution in 1989 and this number of councillors remains today. The District has been divided into six wards since that time.
  43. We note that a significant number of appeals and objections expressed concern about the process followed by the Council in resolving its final proposal for a district-wide general ward. While an appeal or objection on the Council's process is not something the Commission can determine, the number of appeals and objections on this point suggests a lack of clarity around whether and how the Council's final proposal for a district-wide general ward provides effective representation for the district.
  44. The Commission noted in its 2019 determination for Whangarei District that while a council is generally the body best placed to assess the pros and cons of a district-wide vs geographic basis of election, this is "subject to the council going through a good process in assessing the pros and cons, and carefully considering community views throughout the process."<sup>4</sup>
  45. During the preliminary consultation for this review, 60% of community survey respondents supported wards for the general electoral population. During preliminary council briefings, most councillors expressed a preference for 12 or 13 councillors plus mayor and the majority supported a modified status quo model. Conversely, some councillors and Te Kārearea expressed support for district-wide general and Māori wards with fewer councillors, with both groups noting that a district-wide arrangement should include community boards.
  46. Up to and including the Council's deliberations meeting, the Council's decision-making indicates that it considered the district's communities of interest to be sufficiently geographically distinct as to require an arrangement based on multiple

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<sup>4</sup> Determination Whangarei District Council 2019, *Local Government Commission*  
<http://www.lgc.govt.nz/assets/Uploads/LGC-determination-Whangarei-DC2.pdf>

general wards. On 7 September 2021 the Council changed its proposal, resolving to establish a single district-wide general ward with no community boards. In resolving this final proposal, the Council stated the reasons for this as being some submissions supported district-wide voting and it “would allow for more effective, fair, diverse and democratic representation of the District”.

47. The essential question for the Commission to consider is whether the Council’s proposal ensures effective representation for communities of interest.
48. The primary concern expressed by most appellants and objectors was the potential loss of local voices and access to elected members, particularly for smaller coastal and rural communities under a district-wide arrangement. Indeed, the Mayor’s and Deputy Mayor’s commentary about the desirability of community boards acknowledged that the principle of sub-district representation was preferable as a means of providing effective representation.
49. It is not possible to predict where councillors might be elected from under a district-wide election. However, we agree with appellants and objectors that from a statistical point of view the loss of local voices and access to elected members must be a possibility, particularly with a First Past the Post (FPP) electoral system.
50. Enrolment statistics show that currently 50% of electors in Whangarei District reside in the urban Denby and Okara Wards, and 50% reside in other wards. The proportion of urban voters must at least create a risk of urban block voting dominating elections.
51. The Council documentation does not expand on how a district-wide general ward allows for more effective representation of the district’s communities of interest. During our hearing the Council did not support the change from a wards-based arrangement to a district-wide general ward with any qualitative or quantitative analysis to suggest it ensured the statutory principle of effective representation.
52. We note in particular the Council’s reference to elected members being required when making their declaration under Schedule 7 of the Local Government Act, to act in the best interests of the district and as a result they are required take a district-wide perspective in their decision-making. However, that is not the same as ensuring effective representation of communities of interest. To our minds that requires bringing the perspectives of different communities to council decision-making and, both at election time and on an ongoing basis, effective engagement between councillors and the community.
53. The Council also did not provide any substantive, rather than anecdotal, evidence that the change to a district-wide general ward was widely supported by the community. Council officer analysis described the preliminary consultation as showing a preference for a wards-based system. Community feedback during the formal statutory steps indicated that for the most part, the community preferred ward boundaries similar to the existing arrangements. We believe that a final proposal that does not align with this feedback would require a greater degree of substantiated reasoning than the Council provided.
54. We heard the Council’s frustration that the Act allows councils to formally consult on only one option as its initial proposal. However, preliminary consultation was the Council’s opportunity to seek views on particular representation options to enable it to consider a wider range of representation options when developing their formal

proposal. We recommend the Council carries out more work early in its next representation review to gain a deeper understanding of the community's views on the district-wide option for the GEP, and to more clearly articulate the likely impacts on effective representation.

55. Given the above, we believe at the current time this is best achieved in Whangarei District through a geographic ward system.
56. There are a number of possible ward systems. One objector raised the possibility of having one urban ward and one rural ward. Another proposed a mixed wards/at large system.
57. Whangarei District covers urban, rural and coastal areas and a single rural general ward covering almost the entire rural and coastal area of the district, as would occur under the three-ward option, does not seem to be one that would be easy for councillors to represent or engage with. Given that two of the four rural and coastal wards are currently represented by one councillor each, reducing the number of wards-based councillors would exacerbate this problem. We think that a finer geographic split is therefore required.
58. To identify suitable alternative arrangements, we have turned to the council officers' recommended final proposal. This proposal reflects the legislative requirements and Commission guidelines for effective representation, and the feedback from preliminary and formal consultation.

### **Fair representation for electors**

59. 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').
60. 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.
61. The council officers' recommended final proposal is a modified status quo with two boundary changes:
  - a. The two existing urban wards, Denby and Okara, are merged into a single Whangārei Urban General Ward. As a result, the shared boundary between these two wards is removed and the remaining boundaries are as existing.
  - b. The southern part of Cemetery Road north of State Highway 15, currently in the Bream Bay Ward, is moved into the Mangakahia-Maungatapere General Ward.

62. These boundary changes result in three wards not complying with the '+/-10% rule'; the Hikurangi-Coastal General Ward (-19.27%), the Whangārei Urban General Ward (+13.58%), and the Mangakahia-Maungatapere General Ward (-10.92%).
63. We believe there is scope within the provisions of section 19V of the Act for a council, and if necessary the Commission, to achieve an appropriate balance between the requirements for fair representation for electors (the '+/-10% rule') and effective representation of communities of interest. We see these two requirements as equally important, with the need for effective representation of communities of interest allowing variations to the '+/-10% rule' now and in the future. We therefore considered whether the three general wards should not comply with the '+/-10% rule' for the purposes of effective representation.
64. The six wards established when Whangareī District was constituted in 1989 reflected the district's urban, coastal and rural communities. In 2007, the council rearranged the six wards to better reflect those communities, including a new Whangareī Heads Ward and regrouping the coastal and Hikurangi communities in the Hikurangi-Coastal General Ward.
65. For this review, some of the District's general wards had become non-compliant largely as a result of splitting the MEP and GEP, both of which are unevenly distributed across the district. The Council attempted to address this in its initial proposal by moving three sections of the urban area into neighbouring rural and coastal wards. Submissions on the initial proposal strongly opposed moving these areas on the grounds that it would split communities of interest between wards, and place parts of communities which predominantly identify as urban into rural and coastal wards.
66. There are two remaining options open to the Commission to improve fair representation for electors in the three non-compliant general wards. The first is to make further alterations between the rural and coastal wards, and the second is to alter the number of councillors.
67. For the Hikurangi-Coastal General Ward this would mean moving the ward boundaries further into one or both of the neighbouring Whangārei Heads or Mangakahia-Maungatapere General Wards. The Hikurangi-Coastal Ward includes the coastal area north of Ngunguru River and extends inland past the Hikurangi township. It takes 50-60 minutes to drive east to west across the ward on arterial and smaller roads, and approximately 20 minutes north to south along State Highway 1, longer on smaller local roads. In this review, two appeals and objections requested that the existing Mangakahia-Maungatapere Ward be retained.
68. It seems likely that communities in the existing Hikurangi-Coastal Ward would have more commonalities with communities in the neighbouring coastal and rural wards. However, the Council's preliminary engagement does not identify changes to communities of interest in these wards that might support such boundary changes, nor do submissions to the Council's initial proposal or appeals and objections received by the Commission request changes to these boundaries. Travel times appear reasonable for a ward served by two councillors accessing smaller and more sparsely distributed communities.

69. In the absence of specific evidence of changes in the communities of interest reflected by these boundaries, we are not in a position to determine boundaries for this ward other than those in the Council officers' recommended final proposal.
70. The Mangakahia-Maungatapere General Ward with one councillor is very slightly over-represented at -10.92%. In this review, two appeals and objections requested that the existing Mangakahia-Maungatapere Ward be retained.
71. The Council's initial proposal moved the southern part of Cemetery Road from the current Bream Bay Ward into Mangakahia-Maungatapere on the basis that residents of this part of Cemetery Road are distinctly rural rather than coastal. This was not opposed in submissions on the Council's initial proposal and accordingly, the Council officers' recommended final proposal preserves this boundary alteration. While the alteration shifted additional people into the Mangakahia-Maungatapere General Ward, it still needs an additional 67 people to comply with the '+/-10% rule'.
72. It does appear from the initial proposal that the Council has considered in detail possible alterations to both of the boundaries between the Mangakahia-Maungatapere General Ward and its Bream Bay and Whangārei Urban neighbours. It does not seem appropriate in terms of fair or effective representation to investigate further boundary changes, given that the only alternative option is to move the ward boundary further into the Hikurangi-Coastal General Ward which is itself also over-represented. We believe that the Council officers' recommended final proposal strikes an appropriate balance between fair and effective representation for this general ward.
73. As a result of the above changes, the Whangārei Urban General Ward (+13.58%) is under-represented. This ward combines the District's current two urban wards, Okara and Denby. The division of the Whangārei urban area into two wards along a shared boundary is historical. For this review, preliminary engagement indicated that combining the two urban wards into one would provide more effective representation for residents with similar demographic characteristics. Submissions on the initial proposal generally indicated support for the proposal with some opposition on the basis that it gave, variously, urban or rural voters unfair influence over the makeup of the Council.
74. Improving compliance for the Whangārei Urban General Ward would require moving boundaries closer to the urban centre. As discussed, the urban communities of interest have been clearly defined and reinforced through the Council's formal consultation. Altering the ward boundaries to achieve compliance would result in splitting communities of interest with an urban orientation across ward boundaries or alternatively, combining entire urban communities of interest with dissimilar rural communities.
75. The proposed Whangārei Urban General ward spans approximately 13 kilometres from Kamo at its northern boundary to the Whangarei Airport in the southeast. Furthermore, although it is relatively densely populated the ward would be represented by five councillors. Taken together, we believe these factors provide the urban communities adequate access to councillors and vice versa. Accordingly, there is little scope to alter the proposed Whangārei Urban General Ward boundaries without hampering effective representation for clearly identified urban communities of interest.

76. It is clear that the Council has found balancing fair and effective representation for these wards to be a challenging exercise. It is also reasonable to expect the degree of non-compliance to grow in the future, particularly given expected urban growth and the fact that the GEP in the northern part of the district is differently distributed compared to the population as a whole. We recommend the Council undertakes work as part of its next review to identify any potential changes in the grouping of communities of interest across its rural and coastal wards.
77. A further concern raised in appeals and objections related to the total number of councillors, with some arguing that the current number of councillors should be retained. The Council officers' recommended final proposal retains 13 councillors.
78. One appellant proposes increasing the total number of councillors to 14 by adding an extra urban ward councillor, on the basis of disproportionately higher population growth in the urban area. Based on Stats NZ estimates, the total electoral population in the proposed Whangārei Urban General Ward (including proposed boundary alterations outlined above) increased approximately 20.5% between 2017 and 2020, compared with approximately 9.1% across the District.
79. It is not possible to increase the number of urban ward councillors to six while keeping all other ward arrangements the same. Schedule 1A of the Act sets out the basis for calculating the number of members to be elected from Māori and general wards. Under this formula, the number of Māori ward members is relative to the number of general ward members. For Whangārei, increasing the total number of councillors to 14 triggers an increase in the number of Māori ward councillors. To achieve the appellant's proposal for increased urban general representation, the total number of councillors elected from wards would need to increase to 15.
80. Under this arrangement, only the Hikurangi-Coastal General Ward is slightly outside of the +/-10% threshold. However, it is worth noting that in preliminary feedback from the community 84% favoured retaining 13 councillors or fewer. The majority of submitters to the initial proposal who indicated a preference also supported retaining 13 councillors. We do not consider there is a compelling reason to increase the number of councillors at this point in the review process.
81. In light of this, we do not propose altering the total number of councillors. However, if the relative rate of urban growth continues, the under-representation of the urban area will need to be addressed at the time of the Council's next review.

## **Communities and community boards**

82. 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.
83. 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:

- a. Will a community board have an area that is appropriate for the efficient and effective performance of its role?
- b. Will the community contain a sufficiently distinct community of interest or sufficiently distinct communities of interest?

84. The statutory role of a community board is to:

- a. represent and advocate for the interests of its community
- b. consider and report on matters referred to it by its parent council
- c. maintain an overview of council services provided in its community
- d. prepare an annual submission to the council for expenditure within its community
- e. communicate with community organisations and special interest groups within its community
- f. undertake any other responsibilities delegated to it by its parent council.

85. As noted above, the Council's final proposal did not establish community boards. As far as the representation review process is concerned this is a separate decision from decisions relating to the number of councillors and the basis of election, i.e. wards, at large or a mixture of the two. We understand, however, that the establishment of community boards was the preference of some councillors and Te Kārearea as an integral part of representing communities of interest within a district-wide voting arrangement.

86. Having decided that the ward system should be retained it would still be open to us to establish community boards. However, the Council's preliminary engagement, and formal consultation did not suggest clear community support for the establishment of community boards. Our decision to retain a wards arrangement also addresses the concerns expressed in appeals and objections that clearly identified communities of interest would not receive effective representation under the Council's final proposal.

87. We have concluded therefore, that it would not be necessary to establish community boards in Whangarei District at this time.

88. We recommend that if the Council wishes to move towards a district-wide general ward through a future review, it carry out extensive early engagement with communities about the establishment of community boards as part of the process. Any such engagement would benefit from the council having first developed a fully formed view of the delegations and responsibilities of community boards within the District.

## Commission's determination<sup>5</sup>

89. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Whangarei District Council to be held on 8 October 2022, the following representation arrangements will apply:
- a. Whangarei District, as delineated on Plan LG-002-2022-W-1 deposited with the Local Government Commission, will be divided into six wards.
  - b. Those six wards will be:
    - (i) the Whangarei District Māori Ward, comprising the whole area of the district as delineated on Plan LG-002-2022-W-2
    - (ii) the Bream Bay General Ward, comprising the area delineated on Plan LG-002-2022-W-3
    - (iii) the Hikurangi-Coastal General Ward, comprising the area delineated on Plan LG-002-2019-W-2
    - (iv) the Mangakahia-Maungatapere General Ward, comprising the area delineated on Plan LG-002-2022-W-4
    - (v) the Whangārei Heads General Ward, comprising the area delineated on Plan LG-002-2012-W-7
    - (vi) the Whangārei Urban General Ward being the combined areas of the existing Denby ward and the existing Okara Ward comprising the area delineated on Plan LG-002-2022-W-5
  - c. The Council will comprise the mayor and 13 councillors elected as follows:
    - (i) 2 councillors elected by the electors of the Whangarei District Māori Ward
    - (ii) 2 councillors elected by the electors of the Bream Bay General Ward
    - (iii) 2 councillors elected by the electors of the Hikurangi-Coastal General Ward
    - (iv) 1 councillor elected by the electors of the Mangakahia-Maungatapere General Ward
    - (v) 1 councillor elected by the electors of the Whangārei Heads General Ward
    - (vi) 5 councillors elected by the electors of the Whangārei Urban General Ward
  - d. As required by section 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.

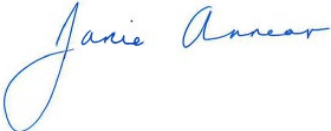
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<sup>5</sup> All plans referred to in this determination are deposited with the Local Government Commission

**Local Government Commission**



Commissioner Brendan Duffy (Chair)



Commissioner Janie Annear



Commissioner Bonita Bigham



Commissioner Sue Piper

7 March 2022