



LOCAL GOVERNMENT COMMISSION
MANA KĀWANATANGA Ā ROHE

Determination

of representation arrangements to apply for
the election of the Horowhenua District Council
to be held on 12 October 2013

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, arrangements for those boards. Representation arrangements are to be determined so as to provide fair and effective representation for individuals and communities.
2. The Horowhenua District Council (the Council) last reviewed its representation arrangements prior to the 2007 local authority elections. Accordingly it was required to undertake a review prior to the next elections in October 2013.
3. The Council currently comprises a mayor and 10 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
Kere Kere	5,410	2	2,705	-358.00	-11.69
Miranui	2,980	1	2,980	-83.00	-2.71
Levin	15,950	5	3,190	+127.00	+4.15
Waiopahu	6,290	2	3,145	+82.00	+2.68
Total	30,630	10	3,063		

*These figures are updated 2011 population estimates. At the time of the 2007 review, all wards complied with the section 19V +/-10% fair representation requirement.

4. Horowhenua District currently has one community board, for Foxton Beach, with five elected members and two appointed members.

5. The Council considered its representation arrangements in a workshop (on 16 May 2012) and at a meeting on 13 July 2012. At this meeting the Council, under sections 19H and 19J of the Act, resolved its initial representation proposal to apply for the October 2013 elections. The proposal was to –
- retain the status quo in relation to wards and the number of councillors
 - transfer three meshblocks (with a population of 75) from Waiopēhu Ward to Kere Kere Ward (so that the latter ward complied with the +/-10% rule in section 19V(2) of the Act)
 - abolish the Foxton Community Board.
6. The resulting ward and membership arrangements were as follows

Wards	Population	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Kere Kere	5,560	2	2,780	-283	-9.24
Miranui	2,980	1	2,980	-83	-2.71
Levin	15,950	5	3,190	+127	+4.15
Waiopēhu	6,140	2	3,070	+7	+0.23
Total	30,630	10	3,063		

7. In notifying its proposal, the Council recorded its reasons for its proposals as follows:
- the size of the council is appropriate for the conduct of the council's business
 - the existing ward structure is well understood by electors and council is satisfied that the ward structure will continue to provide effective representation for distinct communities of interest
 - the amended boundary of Kere Kere Ward, by incorporating three mesh blocks from Waiopēhu Ward, will continue to provide commonality of interest within those communities
 - there needed to be public debate about the retention or otherwise of the Foxton Community Board, and community boards in general. For this reason the Council resolved to move away from the status quo.
8. The Council's initial proposal was publicly notified on 13 July 2012 and submissions called for by 15 August 2012.
9. A total of 127 submissions (and a petition with 461 signatures) were received and the Council summarised these as follows:
- 124 submissions (and the petition) opposed the abolition of the Foxton Community Board
 - 3 submissions supported the abolition of the community board
 - 2 submissions proposed that, instead of the boundary alteration between the Kere Kere and Waiopēhu Wards, the council adopt a three ward structure involving the merging of the Kere Kere and Miranui Wards
 - 2 submissions proposed a community board for the Levin area

- 1 submission proposed a community board for the Shannon area
 - 3 submissions proposed an expansion of the Foxton Community's boundaries
 - 2 submissions proposed that the number of appointed members on the Foxton Community Board be reduced from two to one.
10. At its meeting on 19 September 2012 the Council resolved to amend its initial proposal by –
- retaining the Foxton Community Board
 - maintaining the number of elected members on the board at five
 - reducing from two to one, the number of appointed members on the board.
11. The Council rejected those submissions seeking community boards elsewhere in the district, or alternative ward boundaries.
12. The Council notified its final proposal on 22 September 2012, including reasons for the rejection of submissions opposed to aspects of the proposal, and called for appeals by 26 October 2012.

Appeals against the Council's proposal

13. Seven appeals and objections against the Council's final proposal were received by the deadline of 26 October 2012.
14. The appeals and objections were from:
- Anne Hunt
 - Lewis Rohloff (objection and appeal)
 - Bryan Ten Have for the Horowhenua District & Ratepayers Association
 - George and Christina Paton
 - Michael Coupe
 - Gary Bidlake
15. The issues raised in the appeals and objections were as follows:
- *Anne Hunt* sought retention of two appointed members on the Foxton Community Board.
 - *Lewis Rohloff*, in his objection, sought either two appointed members on the Foxton Community Board or no appointed members, and in his appeal sought a community board for Levin and other communities as the Commission considered appropriate.
 - *Horowhenua District & Ratepayers Association (Bryan Ten Have)* sought either community board coverage over the whole district or nor community boards at all.
 - *George and Christina Paton* sought abolition of the Foxton Community Board and opposed the boundary alteration between the Kere Kere and Waiopahu wards, seeking instead a three-ward option.
 - *Michael Coupe and Gary Bidlake* sought extensions to the boundaries of the Foxton Community.

Hearing

16. The Commission met with the Council and the appellants/objectors at a hearing held in the Horowhenua District Council Chambers on 22 December 2012. Each of the appellants/objectors appeared at the hearing. The Commission also invited the chair of the Foxton Community Board to provide the Commission with its views on the Council's proposal. The Council was represented at the hearing by the Mayor Brendan Duffy, Chief Executive David Ward and Implementation Manager Corporate Initiatives, Ian Tate.

Matters raised in appeals and at the hearing

17. The Council representatives gave presentations outlining the background and context for the review and the Council's objectives throughout the process. The Council considered that the process had shown a level of comfort of the community with the current ward structure and size of the council. The initial proposal to abolish the Foxton Community Board had served the necessary purpose of creating public debate about the retention of the board and community boards in general. That debate showed a clear demand for the retention of the board but no significant demand for community boards in the remainder of the district. Information was provided about the direct relationship the Council has with a variety of organisations across the district and in specific communities. It was considered that there was good communication between the board and the Council.
18. Neville Gimblett, Chair of the Foxton Community Board provided comment about the workings of the board, relationships between the Council and the board and issues within its area. He stated that over the past few years the board had been involved in some major community issues such as health and river water quality. He was aware of facilities and infrastructure lying outside the community boundaries but did not consider this hindered the board having input in respect of these.
19. The main issues raised by appellants/objectors at the hearing and on their appeals and objections were as follows:
 - the three ward option identified by the Council in its discussion paper would better reflect communities of interest
 - the Foxton Community Board was ineffective and should therefore be abolished
 - as a matter of equity there should be a community board for Levin and possibly other parts of the district
 - the boundaries of the Foxton Community Board should be extended to include a number of Foxton related facilities currently situated outside the board's area
 - it would be undemocratic and discriminatory for only one of the members of the Council elected from Kere Kere Ward to be appointed to the Foxton Community Board, and if only one member was appointed that member would benefit from having a greater public profile
 - the proposal to have only one appointed member on the Foxton Community Board created perceptions of cronyism

- in 2007 the Commission decided that the Foxton Community Board should have two members
- a major responsibility of the Foxton Community Board was its role in respect of the Foxton Beach freeholding fund and this warranted two appointed members on the board
- the Fund is a responsibility of the Council and the board should not be involved in decisions about it.

Requirements for determination

20. Statutory provisions relating to the determination of appeals and objections on territorial authority representation proposals are contained in sections 19R, 19H and 19J of the Act.

19R. Commission to determine appeals and objections

- (1) *The Commission must—*
- Consider the resolutions, submissions, appeals, objections, and information forwarded to it under section 19Q; and*
 - Subject to sections 19T and 19V in the case of a territorial authority, and to sections 19U and 19V in the case of a regional council, determine,—*
 - In the case of a territorial authority that has made a resolution under section 19H, the matters specified in that section:*
 - In the case of a regional council that has made a resolution under section 19I, the matters specified in that section:*
 - In the case of a territorial authority that has made a resolution under section 19J, the matters specified in that section.*
- (2) *For the purposes of making a determination under subsection (1)(b), the Commission—*
- May make any enquiries that it considers appropriate; and*
 - May hold, but is not obliged to hold, meetings with the territorial authority or regional council or any persons who have lodged an appeal or objection and have indicated a desire to be heard by the Commission in relation to that appeal or objection.*
- (3) *The Commission must, before 11 April in the year of a triennial general election, complete the duties it is required to carry out under subsection (1).*

19H. Review of representation arrangements for elections of territorial authorities

- (1) *A territorial authority must determine by resolution, and in accordance with this Part,—*
- Whether the members of the territorial authority (other than the mayor) are proposed to be elected—*
 - By the electors of the district as a whole; or*
 - By the electors of 2 or more wards; or*
 - In some cases by the electors of the district as a whole and in the other cases by the electors of each ward of the district; and*
 - In any case to which paragraph (a)(i) applies, the proposed number of members to be elected by the electors of the district as a whole; and*
 - In any case to which paragraph (a)(iii) applies,—*
 - The proposed number of members to be elected by the electors of the district as a whole; and*

- (ii) *The proposed number of members to be elected by the wards of the district; and*
- (d) *In any case to which paragraph (a)(ii) or paragraph (a)(iii) applies,—*
 - (i) *The proposed name and the proposed boundaries of each ward; and*
 - (ii) *The number of members proposed to be elected by the electors of each ward.*
- (2) *The determination required by subsection (1) must be made by a territorial authority —*
 - (a) *On the first occasion, either in 2003 or in 2006; and*
 - (b) *Subsequently, at least once in every period of 6 years after the first determination.*
- (3) *This section must be read in conjunction with section 19ZH and Schedule 1A.*

19J. Review of community boards

- (1) *A territorial authority must, on every occasion on which it passes a resolution under section 19H, determine by that resolution, and in accordance with this Part, not only the matters referred to in that section but also whether, in light of the principle set out in section 4(1)(a) (which relates to fair and effective representation for individuals and communities) —*
 - (a) *There should be communities and community boards; and*
 - (b) *If so resolved, the nature of any community and the structure of any community board.*
- (2) *The resolution referred to in subsection (1) must, in particular, determine—*
 - (a) *Whether 1 or more communities should be constituted:*
 - (b) *Whether any community should be abolished or united with another community:*
 - (c) *Whether the boundaries of a community should be altered:*
 - (d) *Whether a community should be subdivided for electoral purposes or whether it should continue to be subdivided for electoral purposes, as the case may require:*
 - (e) *Whether the boundaries of any subdivision should be altered:*
 - (f) *The number of members of any community board:*
 - (g) *The number of members of a community board who should be elected and the number of members of a community board who should be appointed:*
 - (h) *Whether the members of a community board who are proposed to be elected are to be elected—*
 - (i) *By the electors of the community as a whole; or*
 - (ii) *By the electors of 2 or more subdivisions; or*
 - (iii) *If the community comprises 2 or more whole wards, by the electors of each ward:*
 - (i) *in any case to which paragraph (h)(ii) applies, -*
 - (i) *The proposed name and the proposed boundaries of each subdivision; and*
 - (ii) *The number of members proposed to be elected by the electors of each subdivision.*
- (3) *Nothing in this section limits the provisions of section 19F.*

21. Other statutory provisions the Commission is required to consider include those set out in sections 19A, 19C, 19F, 19G, 19T and 19V and these are addressed below.

Consideration by the Commission

22. The steps in the process for achieving required fair and effective representation are not statutorily prescribed. As reflected in its *'Guidelines to assist local authorities in undertaking representation reviews'*, the Commission believes that the following steps in determining representation arrangements will achieve a robust outcome that is in accordance with the statutory criteria:
- a) identify the district's communities of interest
 - b) determine the best means of providing effective representation of the identified communities of interest
 - c) determine fair representation for electors of the district.

Communities of interest

23. The Guidelines identify three dimensions for recognising communities of interest:
- perceptual: a sense of belonging to an area or locality
 - functional: the ability to meet the community's requirements for services
 - political: the ability to represent the interests and reconcile conflicts of the community.
24. The Commission considers that the case for specific representation of distinct and recognisable communities of interest will need to reflect these dimensions.
25. Since 1995 Horowhenua District has been divided into four wards. The communities of interest in each ward are as follows.

Ward	Communities of Interest
Kere Kere	the townships of Foxton and Foxton Beach, and the surrounding rural area
Waiopahu	the townships of Waitarere, Ohau, Waikawa Beach and Manakau, and the surrounding rural areas
Miranui	the townships of Shannon and Tokomaru, and the surrounding rural areas
Levin	the town of Levin

Effective representation of communities of interest

26. 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 combination of both) will provide effective representation of communities of interest within the district
 - 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.
27. While not a prescribed statutory requirement, the Guidelines also 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 determined solely as the product of the number of members per ward.

28. Section 19A of the Act provides that a territorial authority shall consist of between 5 and 29 elected members (excluding the mayor). The Horowhenua District Council comprised 12 elected members (excluding the mayor) when it was constituted in 1989 and for the 1992 elections, 11 members for the 1995 elections, and 10 members subsequently.
29. The only appeal relating to the ward structure was that from George and Christina Paton who opposed the boundary alteration between the Kere Kere and Waiopahu Wards, and instead sought a three-ward system, arguing that this would better reflect communities of interest.
30. As part of its process, the Council identified a number of alternative ward structures, including a three-ward structure. The Council concluded, however, that "the existing ward structure is well understood by electors and council is satisfied that the ward structure will continue to provide effective representation for distinct communities of interest". We are inclined to agree with the Council. Neither the submission or appeal processes identified a strong desire for change, and no strong evidence was put to the Commission that a three-ward system would provide more effective representation than the current four-ward system. We therefore decided to uphold the Council's proposal for membership of the Council and for the ward structure.

Fair representation for electors

31. Section 19V of the Act requires that the electors of each ward receive fair representation having regard to the population of the district and of that ward. More specifically, section 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 rule').
32. As noted above, the existing Kere Kere Ward does not comply with the +/-10% rule. The Council had proposed to deal with this by transferring three meshblocks from Waiopahu Ward to Kere Kere Ward. We endorse this proposal.

Communities and community boards

33. 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. The particular matters the territorial authority 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 sets out further criteria, as apply to local government reorganisation proposals, for determinations relating to community board reviews as considered appropriate in the circumstances.
34. The Foxton Community Board has existed since the constitution of Horowhenua District in 1989. It has been the sole community board in the district during that time.

35. The issues relating to community boards raised in the appeals and objection are as follows –
- should the Foxtton Community Board be abolished or should there be community boards covering the whole of the district?
 - should the boundaries of Foxtton Community be extended?
 - should there be one appointed member on the Foxtton Community Board, or two members or none?
20. Through its discussions document the Council considered a number of options for community boards. Its reasons for originally proposing to abolish the Foxtton Community Board appeared to be a desire to encourage debate about community boards. Its reasons for the community board structure finally adopted included –
- Foxtton Community being a distinct community
 - the Board provides guardianship over the Foxtton Beach freeholding account
 - there is a need for a strong advocacy group to coordinate views from the community and present them to the Council
 - there had been significant public support for the retention of the board
 - a reduction in the number of appointed members on the board had been agreed to because “improved communication and interaction between the board had been initiated following the public submission process” and two appointed members reporting back to the Council was no longer required
 - the question of extending the boundaries of Foxtton Community required further consultation and should be carried out prior to the next representation review
 - the level of submissions proposing additional community boards had not been sufficient to warrant this course of action.
36. When the Commission considered the future of the Foxtton Community Board in 2007 the then Commissioners commented that –
- The Commission heard that the board considers a wide range of community issues. A compelling argument for the Commission, however, was that the board has a responsibility for making recommendations to the Council regarding the \$2 million Foxtton Beach freeholding account. This requires the board to make recommendations regarding future land use for an area of 164.3 hectares and the use of account funds. Strong community involvement in decisions directly affecting to them is fundamental to the purpose of the LGA. In the Commission’s view, the significance of the board’s responsibilities in relation to the freeholding account warrant a level of democratic accountability that can be provided with a community board.*
- On balance, based on the information presented to it, the Commission believes that the board continues to promote good local government beyond the capacity afforded by alternative community groups. It finds that the Foxtton Community Board will be retained for the 2007 elections.*
37. We consider that these arguments continue to apply and that the board has a continuing role to play in the governance of Foxtton and Foxtton Beach.
38. During both the 2007 and current reviews concern was raised by some appellants about the role the board has in relation to the Foxtton Beach freeholding fund. As we

understand it, the board does not have any delegation from the Council relating to the fund. The board does, however, make recommendations to the Council about the use of the fund. This falls within the scope of a community board's role under section 52 of the Local Government Act 2002.

39. We note that there were a reasonably large number of submissions seeking retention of the Foxton Community Board compared with the smaller number of appeals seeking abolition of the board. We also note that at five out of the last elections voter turnout for elections of the community board was higher for the district council as a whole. At those elections there were always more candidates than positions (sometimes double the number) and that, while there was some turnover of positions, the majority of sitting members were elected. This indicates to us a level of satisfaction with the board.
40. Based on the above we have decided that the Foxton Community Board should be retained.
41. The arguments put by appellants for the constitution of community boards in the remainder of the district (or conversely having no boards at all) focused partly on equity of representation. We do not consider the purpose of community boards is primarily to provide equity in representation across the district. Rather, boards are one of a number of ways of meeting the specific representation needs of particular communities in a district.
42. We do not detect a widespread desire for additional boards or an identified need or deficiency in the governance of the district. We have therefore decided to provide for only one community board in the district, the Foxton Community Board.
43. One appellant sought the establishment of community committees in both Foxton and other communities in the district. This is not a matter we can determine. Community committees are one of a number of means of involving communities in the district's decision-making processes. The Council could consider these but we feel it is best placed to identify the most appropriate arrangements for the district.
44. Two appellants sought an extension of the boundaries of Foxton Community. This was principally because a number of facilities servicing Foxton are situated outside the community boundaries. We examined the boundaries of Foxton Community and concluded that all parts of the existing Foxton and Foxton Beach residential areas fall within those boundaries, even if portions of the boundary follow precisely the line between urban and rural allotments.
45. While it might be beneficial for the urban related facilities to be located within the community, the requirement of the Act for community boundaries to follow meshblock boundaries would result in some unwieldy boundaries if the community were to be extended. The fact that these facilities fall outside the community boundaries does not, in our view, detract from the ability of the board to make representations to the Council in respect of those facilities.
46. Given the above, we have decided to retain the existing boundaries of Foxton Community.
47. We do consider, however, that as part of its next review the Council should further consider the appropriateness of the boundaries of Foxton Community to ensure their relevance for the future and that any changes be identified in time for any necessary changes to the boundaries to be discussed with Statistics New Zealand.

48. The remaining issue relating to the Foxton Community Board was the number of appointed members on the board.
49. The membership of the board was considered by the Commission in 2007, although in a slightly different context – a proposal to alter the membership of the Board from five elected members and one appointed member to four elected members and two appointed members. The Commission determined that the board should comprise five elected members and two appointed members.
50. In doing this the then Commission commented that –
- The Commission considered the Council's proposal to alter the membership of the board from five elected members and one appointed councillor, to four elected members and two appointed councillors. The main arguments presented for increasing the number of appointed councillors were that this:*
- *is simply more practical; and*
 - *will improve communication between residents, the board and the Council.*
- Section 19F(3)(b) of the Act provides that the only people the Council may appoint to the board are councillors elected from the Kere Kere Ward. The Foxton Community comprises approximately 85% of the total population of the Kere Kere Ward. It seems logical to appoint both councillors to the board.*
- Appellants pointed out that councillors were obliged to represent the interests of the district as a whole. They argued that reducing the number of elected members, and increasing the number of appointed councillors, might distort the role of the board, which is to advocate on behalf of its community. Section 19F(2) offers some protection in this respect. It provides that the number of appointed councillors is to be less than half the total number of members. The Council's proposal complies with this requirement. The Commission notes that seven candidates stood for election to the board in 2004. It is not convinced there should be fewer opportunities for residents to represent their community. It is also not satisfied that a reduction in the number of elected members would promote good local government in the community and the district. It finds that the board should comprise five elected members and the two councillors elected from the Kere Kere Ward.*
51. Notwithstanding the Commission's 2007 decision, we have considered this matter again and asked ourselves what the purpose of appointed members on community boards is. In our view the principal purpose of the appointed members is to facilitate communication between the board and the Council. We do not believe that the purpose of appointed members is to provide representation on the board from the community. That is the role of the directly elected members. In many cases the appointed members will have been elected from a ward larger than the community (as is the case for appointed members on the Foxton Community).
52. If the principal purpose of the appointed members is to facilitate communication between the board and the Council, the next question is, how big a job is this and how many appointed members are required to do it. This will vary from case to case.
53. The Chair of the Foxton Community Board advised us at the hearing that the board and the Council have a good relationship; a view was also expressed by the Mayor.

The Board's Chair also stated that "it is useful to have one liaison councillor on the board to assist with understanding of proper process and to keep board members grounded in reality when they threaten to become too locally focused".

54. Given these considerations, in the case of the Foxton Community Board we consider that one appointed member is adequate.
55. For the above reasons we uphold the Council's proposals in respect of community boards.

Commission's Determination

56. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Horowhenua District Council to be held on 12 October 2013, the following representation arrangements will apply:
 - (1) Horowhenua District, as delineated on Plan LG-042-2013-W-1 deposited with the Local Government Commission, will be divided into four wards.
 - (2) Those four wards will be:
 - (a) Kere Kere Ward, comprising the area delineated on LGC Plan 042-2013-W-2 deposited with the Local Government Commission
 - (b) Miranui Ward, comprising the area delineated on SO Plan 36033 deposited with Land Information New Zealand
 - (c) Levin Ward, comprising the area delineated on SO Plan 36032 deposited with Land Information New Zealand.
 - (d) Waiopahu Ward, comprising the area delineated on Plan LG-042-2013-W-4 deposited with the Local Government Commission.
 - (3) The Council will comprise the mayor and 10 councillors elected as follows:
 - (a) 2 councillors elected by the electors of Kere Kere Ward
 - (b) 1 councillors elected by the electors of Miranui Ward
 - (c) 5 councillors elected by the electors of Levin Ward.
 - (d) 2 councillors elected by the electors of the Waiopahu Ward.
 - (4) There will be a Foxton Community comprising the area delineated on SO Plan 36061 deposited with Land Information New Zealand.
 - (5) The Foxton Community Board will comprise five elected members and one member appointed to the community board by the Council representing the Kere Ker Ward.
57. As required by sections 19T(b) and 19W(c) 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.

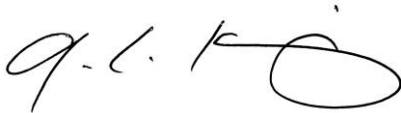
THE LOCAL GOVERNMENT COMMISSION



Basil Morrison (Chair)



Anne Carter (Commissioner)



Grant Kirby (Commissioner)

9 April 2013