



LOCAL GOVERNMENT COMMISSION
MANA KĀWANATANGA Ā ROHE

Determination

of representation arrangements to apply for
the election of the Hutt City 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 Hutt City 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. As a result of appeals/objections on its last review, the representation arrangements that applied for the 2007 and subsequent 2010 elections were determined by the Commission and comprised a mayor and 12 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
Northern	16,350	2	8,175	-404	-4.71
Eastern	17,950	2	8,975	+396	+4.62
Western	15,650	2	7,825	-754	-8.79
Central	16,950	2	8,475	-104	-1.21
Harbour	17,950	2	8,975	+396	+4.62
Wainuiomata	18,100	2	9,050	+471	+5.49
TOTALS	102,950	12	8,579		

*These figures are updated 2011 population estimates.

4. The city currently has three community boards in Petone, Eastbourne and Wainuiomata.

5. The Council commenced its review of representation arrangements by appointing a governance group to oversee the representation review process. This process included a series of workshops by the Council with community boards and community committees to ensure their views were considered in the formulation of a draft proposal. Surveys were also carried out to gauge community views on the basis of election (wards, at large, or a mix of both) and on retention of community boards and community committees. The officers report to the Council on the initial proposal said the proposal reflected the feedback received from community boards, community committees and the community via the survey.
6. On 14 August 2012 the Council, under sections 19H and 19J of the Act, resolved its initial proposed representation arrangements to apply for the 2013 elections. The proposal was for the council to continue to comprise a mayor and 12 councillors elected from the current six wards subject to one minor boundary adjustment between two of the wards. The proposal was also for the retention of the existing three community boards with the Eastbourne Board comprising five elected and two appointed members, the Petone Board six elected and two appointed members, and the Wainuiomata Board six elected and two appointed members. While not formally part of the review process, the Council also noted it proposed to retain the community committees that exist in parts of the city which do not have community boards.
7. The Council notified its proposal on 28 August 2012 and six submissions were received by the closing date of 2 October 2012.
8. Following consideration of the submissions, the Council on 23 October 2012 resolved to adopt its initial proposal as its final representation proposal.
9. The Council notified its final proposal on 13 November 2012. In doing so the Council noted the following reasons for its decision:
 - the majority of respondents to both the random telephone survey and survey monkey undertaken prior to developing the draft proposal indicated a preference for some form of second tier representation and preference between the status quo and seven elected boards was even
 - the Council is committed to reconsidering representation once decisions have been made concerning regional governance – this will provide Council with an opportunity to reconsider suggestions made in submissions
 - current government policy supports greater levels of amalgamation and as a result a higher ratio of residents to elected members, and increasing the number of elected members in Hutt City would go against current government policy and impact on decisions regarding representation arrangements of the region as a whole in future.
10. One appeal, from Mr Alan Waller, was received against the Council's final proposal. The appeal was against the Council's decision not to combine the Petone and Eastbourne Community Boards as suggested in Mr Waller's submission on the Council's initial proposal.

Requirements for determination

11. 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—*
- (a) *Consider the resolutions, submissions, appeals, objections, and information forwarded to it under section 19Q; and*
 - (b) *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,—*
 - (i) *In the case of a territorial authority that has made a resolution under section 19H, the matters specified in that section:*
 - (ii) *In the case of a regional council that has made a resolution under section 19I, the matters specified in that section:*
 - (iii) *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—*
- (a) *May make any enquiries that it considers appropriate; and*
 - (b) *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,—*
- (a) *Whether the members of the territorial authority (other than the mayor) are proposed to be elected—*
 - (i) *By the electors of the district as a whole; or*
 - (ii) *By the electors of 2 or more wards; or*
 - (iii) *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*
 - (b) *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*
 - (c) *In any case to which paragraph (a)(iii) applies,—*
 - (i) *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.*

12. 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

13. 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

14. 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.
15. The Commission considers that the case for specific representation of distinct and recognisable communities of interest will need to reflect these dimensions.

Effective representation of communities of interest

16. 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.
17. 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 arrived at solely as the product of the number of members per ward.
18. Section 19A of the Act provides that a territorial authority shall consist of between 5 and 29 elected members (excluding the mayor). The Council initially comprised 15 elected members (excluding the mayor) on its constitution in 1989 and for the 1992 elections. Since that time the number of members (excluding the mayor) has ranged between 11 and 13 and is currently 12. This gives the city one of the highest levels of councillor representation for cities with a population over 100,000.
19. The Guidelines state that decisions relating to the representation of communities of interest (the political dimension) will need to take account of the extent that distinct geographical communities of interest can be identified, i.e. a physical boundary is able to be defined below the district level for the community of interest. Lower Hutt City as constituted in 1989 was initially divided into five wards and later six wards. These wards related to the amalgamation that occurred in 1989 with the old Lower Hutt City divided into three then four wards, the former Petone and Eastbourne Boroughs combined into Harbour Ward and the former Wainuiomata District as Wainuiomata Ward. While some boundary changes have occurred subsequently, the current ward structure appears to be well established and reasonably well accepted.
20. The Council was proposing to retain the current six ward structure with one minor boundary adjustment between the Western and Harbour Wards, to address what was seen as an anomaly, by the splitting of a meshblock currently straddling the railway line along Wakefield Street. Given the settled nature of the wards and the Council's intention to reconsider representation arrangements in future, including suggestions from the community, we endorse the Council's current proposal on this issue.

Fair representation for electors

21. 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'). The Council's proposal complies with the '+/-10% rule'.

Communities and community boards

22. 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.
23. In 1989, three community boards were established in the new Lower Hutt City in the areas of the former Petone and Eastbourne Boroughs and Wainuiomata District. The existence of these three boards and no boards in the area of the former Lower Hutt City has been the subject of periodic debate since 1989. In 2006, for example, the Council initially proposed the abolition of the three community boards. This prompted a big community response with 1,456 (98.2%) opposed to the proposal and 26 (1.8%) in support. The Council finally proposed the retention of the three boards.
24. Fourteen appeals/objections were received on the Council's final proposal in 2006 including some on the Council decision not to establish community boards across the city or at least in the Northern Ward. At the hearing of appeals and objections, arguments presented included that it was unfair to have community boards only in some areas of the city and that this inequity had led to the Council consulting the community on preferences for either none or six community boards across the city. It was also argued that the establishment of ward committees in areas which did not have community boards was aimed at addressing the perceived imbalance. As noted, the Council subsequently decided to establish community committees in areas without community boards and the Council is proposing that these be retained.
25. The appellant in the current review was appealing on the grounds that the proposed second tier arrangements for the Harbour Ward are not equitable or fair and cited the Council's public notice of variations from the average of +34.4% for Petone and +73.6% for Eastbourne. We note that the comparison with other wards in the city is not strictly accurate as the Petone and Eastbourne communities *share* two councillors. The appellant sought the amalgamation of the Petone and Eastbourne Community Boards to address the perceived inequity.
26. The variations cited by the appellant were variations from the average for total proposed 'second tier' representation i.e. proposed community boards/committees across the city including appointment of ward councillors. As such, the variations do not relate to the fair representation requirement of section 19V of the Act which stipulates a maximum +/-10% variation applying for elected representatives in wards or in subdivisions of communities.

27. We acknowledge, however, that the principle of fair and effective representation for individuals and communities (section 4 of the Act) does relate to representation arrangements generally. We needed, therefore, to consider the validity of the appeal as set out.
28. We noted that the Council officers' report on the initial proposal did identify several options relating to community boards including an option of four boards (for the north, south, east and west parts of the city) not related to wards. The report noted that it was likely that a south community board, i.e. the amalgamation of the current Petone and Eastbourne Community Boards, "would be strongly resisted with arguments that the two areas are so different as to need separate representation". While noting the two areas are similar in many ways in terms of a 'seaside feel', strong arts and culture communities, support for retention of the heritage of their areas, median income, and history of being separate boroughs, the report also noted differences in terms of ethnicity, demographics and unemployment levels. The report also raised the option of reducing the number of elected members to the community boards and community committees.
29. We did consider the option of reducing the number of elected members to either or both of the Petone and Eastbourne Community Boards. The minimum number of elected members for a community board is four and currently the Petone Community Board has six elected members (since 1989) and the Eastbourne Community Board five (originally 6 reduced to 5 in 1998). Reductions in membership, however, made minimal difference to the percentage variations, cited above, that concerned the appellant.
30. Given the history of debates about the equity of second tier representation in Lower Hutt City dating back to 1989, past Council proposals to address the issue, and responses from the community in light of such proposals, we believe this is an issue that still needs to be debated by the community or communities concerned and ultimately resolved at the local level. We do not believe it is appropriate for the Commission, in the absence of more thorough consultation, to make a determination to change existing arrangements on this issue at this time. We note again the Council's intention to further consider representation arrangements in future. On this basis, we endorse the Council's proposal to retain the existing three community boards with their current levels of representation. This is subject to a minor boundary alteration for the Petone Community Board area so this coincides with the altered ward boundary between the Western and Harbour Wards.

Commission's Determination

31. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Hutt City Council to be held on 12 October 2013, the following representation arrangements will apply:
 - (1) Lower Hutt City, as delineated on LG-046-2013-W1 deposited with the Local Government Commission, will be divided into six wards.
 - (2) Those six wards will be:
 - (a) Northern Ward, comprising the area delineated on SO Plan 37405 deposited with Land Information New Zealand
 - (b) Western Ward, comprising the area delineated on LG-046-2013-W2 deposited with the Local Government Commission

- (c) Eastern Ward, comprising the area delineated on SO Plan 37407 deposited with Land Information New Zealand
 - (d) Central Ward, comprising the area delineated on SO Plan 37409 deposited with Land Information New Zealand
 - (e) Harbour Ward, comprising the area delineated on LG-046-2013-W3 deposited with the Local Government Commission
 - (f) Wainuiomata Ward, comprising the area delineated on SO Plan 35984 deposited with Land Information New Zealand.
- (3) The Council will comprise the mayor and 12 councillors elected as follows:
- (a) 2 councillors elected by the electors of Northern Ward
 - (b) 2 councillors elected by the electors of Western Ward
 - (c) 2 councillors elected by the electors of Eastern Ward
 - (d) 2 councillors elected by the electors of Central Ward
 - (e) 2 councillors elected by the electors of Harbour Ward
 - (f) 2 councillors elected by the electors of Wainuiomata Ward.
- (4) There will be three communities as follows:
- (a) Eastbourne Community, comprising the area delineated on SO Plan 36005 deposited with Land Information New Zealand
 - (b) Petone Community, comprising the area delineated on LG-046-2013-Com-1 deposited with the Local Government Commission
 - (c) Wainuiomata Community, comprising the area of the Wainuiomata Ward.
- (5) The membership of each community board will be as follows:
- (a) Eastbourne Community Board will comprise five elected members and two members representing the Harbour Ward appointed to the community board by the Council
 - (b) Petone Community Board will comprise six elected members and two members representing the Harbour Ward appointed to the community board by the Council
 - (c) Wainuiomata Community Board will comprise six elected members and two members representing Wainuiomata Ward appointed to the community board by the Council.
32. 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.

THE LOCAL GOVERNMENT COMMISSION



Basil Morrison (Chair)



Anne Carter (Commissioner)



Grant Kirby (Commissioner)

2 April 2013