



LOCAL GOVERNMENT COMMISSION
MANA KĀWANATANGA Ā ROHE

Determination

of representation arrangements to apply for
the next election of the Kaipara District Council

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 Kaipara 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 local authority elections in October 2013.¹
3. As a result of its last review, the representation arrangements that applied for the 2007 and subsequent 2010 elections were for a mayor and eight 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 |
|--------------------|---------------|--------------------------------|---------------------------|---|--|
| Dargaville | 4,440 | 2 | 2,220 | -176 | -7.35 |
| West Coast-Central | 6,310 | 3 | 2,103 | -293 | -12.23 |
| Otamatea | 8,420 | 3 | 2,807 | +411 | +17.15 |
| TOTALS | 19,170 | 8 | 2,396 | | |

*These figures are updated 2011 population estimates

¹ On 6 September 2012, the Minister of Local Government appointed four commissioners to perform and exercise the responsibilities, duties and powers of the Kaipara District Council. The Gazette notice of these appointments advised that the October 2013 triennial general elections for the Council were cancelled and that the next general election of the Council will be held on 17 October 2015. This determination will therefore apply to those elections.

4. Currently Kaipara District has no community boards.
5. The Council commenced its review of representation arrangements by conducting two workshops on representation issues and options. The workshops were held in the knowledge that under current arrangements, two of the wards did not comply with the +/-10% fair representation requirement of the Act (the '+/-10% rule').
6. On 28 March 2012 the Council, under sections 19H and 19J of the Act, resolved its initial proposed representation arrangements. The proposal was for the retention of the wards as presently constituted but with one additional councillor which meant the arrangements complied with the '+/-10% rule' as set out below.

| 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 |
|--------------------|---------------|--------------------------------|---------------------------|---|--|
| Dargaville | 4,440 | 2 | 2,220 | +90 | +4.23 |
| West Coast-Central | 6,310 | 3 | 2,103 | -27 | -1.27 |
| Otamatea | 8,420 | 4 | 2,105 | -25 | -1.17 |
| TOTALS | 19,170 | 9 | 2,130 | | |

7. The Council resolved that the reason for increasing the number of councillors was to provide "more effective representation for Kaipara residents and ratepayers, and to comply with section 19V of the Act". The Council agreed to note in the required public notice that it had considered a number of other options before agreeing its initial proposal including the introduction of a fourth ward for the southeastern area of the district (currently in the Otamatea Ward).
8. The Council also resolved not to establish community boards as it considered that the ward arrangements provided fair and effective representation arrangements.
9. The Council notified its initial proposal on 30 April 2012 and called for submissions by 30 May 2012. This period overlapped with the Council's consultation on its long-term plan and a number of submissions received related to both processes. A total of 403 submissions were received with most strongly opposed to an increase in the number of councillors.
10. Following consideration of submissions received, the Council at its meeting on 2 July 2012 resolved to amend its initial proposal. Its final proposal was to retain the current eight councillors and in order to comply with the fair representation requirement, alter the boundary between the West Coast-Central and Otamatea Wards by transferring the Ararua/Matakohe area, comprising approximately 580 people, from the Otamatea Ward to the West Coast-Central Ward. This resulted in the following arrangements.

| 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 |
|--------------------|------------|--------------------------------|---------------------------|---|--|
| Dargaville | 4,440 | 2 | 2,220 | -176 | -7.35 |
| West Coast-Central | 6,910 | 3 | 2,303 | -93 | -3.88 |

| | | | | | |
|---------------|---------------|----------|--------------|------|-------|
| Otamatea | 7,820 | 3 | 2,607 | +211 | +8.81 |
| TOTALS | 19,170 | 8 | 2,396 | | |

11. Again the Council resolved that no community boards be established.
12. In notifying its proposal, the Council explained the reason for its decision as it being required to comply with the Local Electoral Act and that the option adopted reflected the majority of submissions received on the issue.
13. One appeal against the Council's final proposal was received by the deadline of 13 August 2012. The appellant, Helen Curreen, objected to the minor adjustment being made to ward boundaries that she believed would need to be repeated in future, and "a continuation of the under representation of the Otamatea Ward". The appellant also queried the basis on which the population estimate was made and the source of the data.

Procedural issues

14. The appellant's concern that the proposed minor boundary adjustment would need to be repeated is not a statutory consideration for representation reviews and, in any event, is subject to a range of factors which are unknown at this time.
15. In relation to the population estimates used, we confirmed that the Council used estimates supplied by the Government Statistician (through Statistics New Zealand) as required by section 19X of the Act.
16. Resolution of these issues left us with one substantive matter in the appeal, the claimed under representation of the Otamatea Ward. We agreed that this was a matter that we could determine without the need for a hearing to be conducted and we proceeded to make the required determination.

Requirements for determination

17. Statutory provisions relating to the determination of appeals 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.*

18. 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

19. 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

20. 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.
21. 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

22. 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.
23. 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.
 24. Section 19A of the Act provides that a territorial authority shall consist of between 5 and 29 elected members (excluding the mayor). The Council comprised ten elected members (excluding the mayor) from its constitution in 1989 until the 2004 elections. For the 2007 and 2010 elections the Council has comprised eight elected members (excluding the mayor).
 25. In its initial proposal on the current review, the Council proposed increasing the number of elected members from eight to nine. The proposed increase was strongly opposed in submissions on the initial proposal (316 submissions were opposed being three-quarters of those received which also covered the Council's draft long-term plan). Subsequently the Council resolved to retain the current number of elected members, i.e. eight, and to make a boundary adjustment in order to comply with the fair representation requirements of the Act. We believe the current eight members is within an appropriate range for Kaipara District.
 26. 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. From its constitution in 1989, Kaipara District has been divided into wards. There were four wards from the 1989 elections until 2007 when these reduced to three as proposed to be retained for the next council elections.
 27. A ward structure appears to be well accepted in Kaipara District and there was no strong push for change. We believe this is an appropriate basis of election for the district, given its size, geography and topography, for providing effective representation for distinct communities of interest in the district.
 28. When notifying its initial representation proposal to retain the current wards (with an additional councillor), the Council noted it had considered options for establishing a fourth ward in the southeastern area of the district. These options included a Mangawhai Ward electing one councillor which would have resulted in a nine-member council, or a Southeastern Ward electing two councillors as part of an eight-member council.
 29. As noted, over three-quarters of submissions on the Council's initial proposal for a nine-member council (with the additional councillor to be elected from the Otamatea Ward), opposed an increase in the size of the council. We were advised that there was no response to the other options that the Council noted it had considered including a new Southeastern Ward electing two councillors to an eight-member council. While there may be some community support for specific representation for the Mangawhai area, this was not demonstrated through the submission process or through appeals with the exception of the one appellant.

30. The appellant was appealing against alleged under-representation for the Otamatea Ward however this is still within the prescribed +/-10% range for fair representation. To achieve increased representation for the Otamatea Ward as a whole, while retaining a total of eight councillors, would require an area additional to that transferred out of the ward in the Council's final proposal, to be transferred into the ward. Given the impact this would have on existing communities of interest and the lack of demonstrated community support, we do not believe such a change to ward boundaries is appropriate. Also as noted, the point of making such a change is questionable when the option of more specific representation for the southeastern area had been considered but failed to gain Council or community support. Accordingly we do not support the change proposed by the appellant.

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. The Council's final proposal was to retain the current eight councillors and, in order to comply with the fair representation requirement, to alter the boundary between the West Coast-Central and Otamatea Wards by transferring the Ararua/Matakohe area, comprising approximately 580 people, from the Otamatea Ward to the West Coast-Central Ward.
33. Given the proposal complies with the requirements of section 19V of the Act, the fact only one appeal was received against the proposal and our rejection of the appeal, we endorse the Council's final ward proposal.

Communities and community boards

34. 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.
35. We note currently there are no community boards in Kaipara District and the absence of calls as part of the review process, for any to be established. Accordingly we endorse the Council's proposal for no community boards to be established.

Commission's Determination

36. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the next general election of the Kaipara District Council the following representation arrangements will apply:
- (1) Kaipara District, as delineated on SO Plan 63499 deposited with Land Information New Zealand, will be divided into three wards.
 - (2) Those three wards will be:
 - (a) the Dargaville Ward, comprising the area delineated on SO Plan 70435 deposited with Land Information New Zealand
 - (b) the West Coast-Central Ward, comprising the area delineated on Plan LG-003-2013-W-1 deposited with the Local Government Commission
 - (c) the Otamatea Ward, comprising the area delineated on Plan LG-003-2013-W-2 deposited with the Local Government Commission
 - (3) The Council will comprise the mayor and 8 councillors elected as follows:
 - (a) 2 councillors elected by the electors of the Dargaville Ward
 - (b) 3 councillors elected by the electors of the West Coast-Central Ward
 - (c) 3 councillors elected by the electors of the Otamatea Ward.
37. As required by sections 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.

THE LOCAL GOVERNMENT COMMISSION



Basil Morrison (Chair)



Anne Carter (Commissioner)



Grant Kirby (Commissioner)

4 March 2013