



Determination

of representation arrangements to apply for
the election of Hamilton City Council
to be held on 12 October 2019

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, membership arrangements for those boards. Representation arrangements are to be determined so as to provide fair and effective representation for individuals and communities.
2. Hamilton City Council (the council) last reviewed its representation arrangements prior to the 2013 local authority elections. Therefore, it was required to undertake a review prior to the next elections in October 2019.
3. At the time of the last review, no appeals/objections were received against the council's final proposal. As a result, the proposal determined by the council set the representation arrangements that applied for the 2013 and subsequent 2016 local authority elections. Those arrangements were for a council comprising the mayor and 12 councillors elected from two wards as set out in the following table.

Ward	Population*	Number of councillors per ward	Population per councillor	Deviation from city average population per councillor	% deviation from city average population per councillor
East	74,600	6	12,433	+291	+2.40
West	71,100	6	11,850	-292	-2.40
Total	145,700	12	12,142		

*Based on Statistics NZ 2011 population estimates

4. The arrangements also include no community boards in Hamilton City.
5. For its current review, the council went through a number of preliminary consultation stages in relation to possible representation arrangements. These stages were:
 - research and benchmarking
 - preliminary consultation by way of an online survey (420 respondents)
 - further consultation by way of two focus groups and a phone survey (500 respondents)
 - communication with elected members through briefings and informal meetings.

6. Council officers summarised the findings of the various pre-consultation initiatives including:
 - people hold a range of views about what arrangements will deliver the best results for the city
 - an at large system was the individual option most people preferred (160 from online survey, 300 from phone survey)
 - however, when including responses from the 2018 Community Profile Survey about whether current arrangements adequately represented them, more people overall indicated preference for the status quo (585), 88 from online survey, 165 from telephone survey.
7. The report also noted a significant proportion of the public chose not to engage in the pre-consultation evidenced by only 420 responses from 14,000 views of the online survey. It noted “there is a need to provide better public education around civic matters in light of the observed confusion about how representation arrangements work”.
8. Based on the research and feedback received, a paper identifying the following six reasonably practicable options was prepared for an elected members’ briefing:
 - status quo (two wards East and West)
 - at large
 - two wards North and South
 - three wards
 - four wards
 - mixed system.
9. At a meeting on 16 August 2018, the council adopted its initial representation proposal. This proposal was for retention of status quo arrangements being a council comprising the mayor and 12 councillors elected from two wards, and for there to be no community boards in the city.
10. The proposed ward arrangements are set out in the following table.

Ward	Population*	Number of councillors per ward	Population per councillor	Deviation from city average population per councillor	% deviation from city average population per councillor
East	87,100	6	14,517	+734	+5.33
West	78,300	6	13,050	-733	-5.32
Total	165,400	12	13,783		

*Based on Statistics NZ 2017 population estimates

11. The council notified its initial proposal on 24 August 2018 and invited submissions by 24 September 2018. The council received 37 submissions of which 8 supported the proposal and 29 opposed the proposal.
12. Of the 29 opposing the proposal:
 - 11 supported an at large system
 - 11 supported an increase in the number of wards

- 5 supported a reduction in the number of councillors
 - 2 supported an increase in the number of councillors
 - 3 supported the establishment of community boards.
13. At a meeting on 9 October 2018, the council, after considering the submissions, resolved to adopt its initial proposal as its final representation proposal.
14. In notifying its final proposal, the council commented as follows on the reasoning for its decision:
- there were a diverse range of views expressed in the submissions and they were of a contradictory nature
 - the Waikato River is a distinct geographical feature which is a well-known reference point for communities of interest
 - the current wards continue to reflect Hamilton’s communities of interest to at least the same extent as other representation structures advocated through the submissions
 - the current ward structure does not create any more barriers to participation either for voters or those standing as a candidate, than other representation structures advocated through submissions
 - the current ward structure provides a balance between the views of submitters proposing a better choice of candidates and those seeking more knowledge and connections to local areas.
15. The final proposal was publicly notified on 3 November 2018 and appeals invited by 7 December 2018.
16. One appeal against the council’s final proposal was received from Deborah Fisher. The appeal is against the retention of the current two-ward representation structure given what is seen in the submissions as a desire for change.

Matters for determination by the Commission

17. 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.
18. Given this requirement, any concerns expressed by appellants/objectors relating to the council’s review process are not matters that the Commission needs to address. We may, however, comment on a council’s process if we believe it would be of assistance to the council in a future review.
19. The matters in scope of the review are:
- whether the council is to be elected from wards, the district as a whole, or a mix of the two
 - the number of councillors

- if there are to be wards, the area, boundaries and names of wards and the number of councillors to be elected from each ward
 - whether there are to be community boards
 - if there are to be community boards, the area, boundaries and names of their communities, and the membership arrangements for each board.
20. For the purpose of making a determination, the Commission may make such enquiries as it considers appropriate and may hold meetings with the interested parties. There is no obligation on the Commission to hold a hearing and the decision on whether to hold a hearing is based on the information provided by the parties and as a result of any further enquiries the Commission may make.
21. In the case of Hamilton City Council’s proposal, we considered there was sufficient information in the documentation provided by the council on the process it had followed in making its decision and also in the appeal for us to proceed to a determination. Accordingly, we decided no hearing was required.

Key considerations

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

Communities of interest

23. The Guidelines identify three dimensions for recognising communities of interest:
- *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
 - *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
 - *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.
24. 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.
25. In addition to evidence 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.

26. In the case of Hamilton City, the city was constituted in 1989 largely based on the then existing city with some boundary changes in anticipation of future growth. While Hamilton was seen as the main centre for a wider Waikato area, the Commission was concerned at the impact a larger territorial authority would have upon the other districts in the region. Accordingly, the city was confined to a largely urban area.

Effective representation of communities of interest

27. 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 mix of both) will provide effective representation of communities of interest within the city
 - 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).
28. 'Effective representation' is not defined in the Act, but the Commission sees this as requiring consideration of factors including the appropriate total number of elected members and the appropriate basis of election of members for the district concerned (at large, wards, or a mix of both).
29. Section 19A of the Act provides that a territorial authority shall consist of between 5 and 29 members, excluding the mayor. The Hamilton City Council initially comprised a mayor and 17 councillors on its constitution in 1989. This number was reduced to 13 in 1992 and then to the current 12 in 2007. As noted, the council's pre-consultation activities showed a range of views on the appropriate number of councillors including some support for the existing number. There was also a range of views on this matter in the submissions on the council's initial proposal.
30. The Commission's Guidelines note the following factors need to be considered when determining effective representation:
- 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.
31. Hamilton City initially had five wards in 1989 and this was reduced to three in 1998. The current two wards, divided by the Waikato River, were established for the 2007 elections. From the council's consultation activities, there now appears to be a range of views in the community on the appropriate number of wards including no wards i.e. an at large system. Given this range of views, the council is proposing the retention of current arrangements.

32. It is noted that the appellant states that in her submission on the council's initial proposal she "supported a change to 3 wards ... however ... I would ideally like more than 3 wards and feel that a mixed system (wards & at large) should also be considered".
33. It is clear from the council officer reports that the council does have good information in relation to the communities that make up Hamilton City. This includes the characteristics of 'community profile areas' with 12 of these (six within each ward) identified following the last census. However, it is not clear the extent to which the council considered this information in relation to the present two-ward structure. In other words, do the two wards continue to reflect groupings of communities of interest with distinct commonalities, and more so than other possible groupings? The appellant believes they do not.
34. We note the appellant herself does not identify one preferred ward structure and also raises the option of a mixed ward-at large system of representation. Given this, and the range of views expressed in the consultation, we are not in a position, nor do we think it would be appropriate at this stage in the review, to determine a different ward structure. Accordingly, we have determined to endorse the council's proposal for retention of the current two-ward structure electing 12 councillors.
35. We recommend, for its next representation review, the council undertakes further work on appropriate groupings of the city's communities of interest with a view to ensuring the most effective representation for these communities into the future. This consideration should include both recent and forecast population growth in Hamilton City, along with the likely impact of boundary alterations between the city and neighbouring Waikato and Waipa districts already completed and possible in the foreseeable future.

Fair representation for electors

36. For the purposes of fair representation for the electors of a district, section 19V(2) 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').
37. The council's proposal for a council comprising the mayor and 12 councillors elected from two wards, complies with the rule.

Communities and community boards

38. 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.
39. 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:

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

40. There have been no community boards in Hamilton City since its constitution in 1989. The council is not proposing the establishment of any community boards and the appeal does not raise this issue. Accordingly, we endorse the council's proposal in relation to this matter.

Commission's determination

41. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of Hamilton City Council to be held on 12 October 2019, the following representation arrangements will apply:

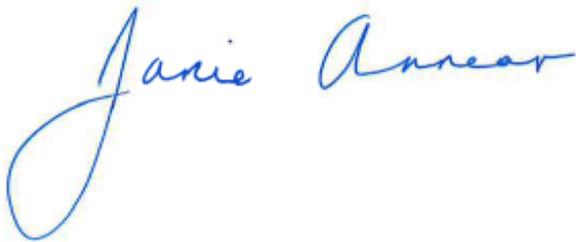
1. Hamilton City, as delineated on Plan LG-016-2013-W-1 deposited with the Local Government Commission, will be divided into two wards.
2. Those two wards will be:
 - a) East Ward, comprising the area delineated on Plan LG-016-2013-W-3 deposited with the Local Government Commission
 - b) West Ward, comprising the area delineated on Plan LG-016-2013-W-2 deposited with the Local Government Commission
3. The Council will comprise the mayor and 12 councillors elected as follows:
 - a) six councillors elected by the electors of East Ward
 - b) six councillors elected by the electors of West Ward

42. 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 purposes.

LOCAL GOVERNMENT COMMISSION

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Commissioner Pita Paraone (Chairperson)

A handwritten signature in blue ink, reading 'Janie Annear', with a large, stylized initial 'J'.

Commissioner Janie Annear

A handwritten signature in black ink, reading 'B. J. Duffy', with a large, stylized initial 'B'.

Commissioner Brendan Duffy

8 April 2019