



LOCAL GOVERNMENT COMMISSION

Determination of representation arrangements to apply for the election of the Horowhenua District Council to be held on 13 October 2007

Background

1. The Horowhenua District Council (the Council) elected at the 2004 local election comprises the mayor and 10 councillors. The 10 councillors were elected as follows:

Wards	Population*	No. of councillors per ward	Population per councillor	Deviation from district average population per councillor	Percentage deviation from district average population per councillor
Kere Kere	5,600	2	2,800	-252.00	-8.26
Miranui	2,990	1	2,990	-62.00	-2.03
Levin	15,850	5	3,170	+118.00	+3.87
Waiopahu	6,080	2	3,040	-12.00	-0.39
TOTALS	30,520	10	3,052		

*These figures are rounded 2005 population estimates provided by the Government Statistician

2. The Foxton Community Board comprises five elected members and one councillor elected from the Kere Kere Ward. The boundaries of the community comprise the areas of Foxton and Foxton Beach townships, which are within the Kere Kere Ward.
3. On 10 August 2006, the Council notified its initial representation proposal, under sections 19H and 19J of the Local Electoral Act 2001 (the Act) as follows:
 - (a) the existing arrangements for the election of the Council be retained; and
 - (b) the Foxton Community Board comprise four elected members and two appointed councillors elected from the Kere Kere Ward. The existing boundaries of the community remain and the community not be subdivided.
4. In notifying its initial proposal, the Council described the four proposed wards as relating to communities of interest as follows:

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

5. The Council received 25 submissions on its proposal. Nineteen submissions were in favour of the proposal, or elements of the proposal. Of these, 14 were opposed to the suggestion, made by the Foxton Community Board that the boundaries of the Foxton community be extended¹. Seven submissions contained objections to various elements of the proposal, as follows:

- four submissions objected to the retention of the Foxton Community Board;
- one submitter considered the concept of community boards should be extended to the wider district;
- one submitter proposed a community board be established for Levin;
- one submitter sought to extend the boundaries of the Foxton Community to better reflect the community of interest of the area; and
- one submitter proposed an increase in the number of councillors either by increasing the ward councillors for Levin from five to six, or by electing an additional councillor at large. This submitter was also opposed to Council's proposal to amend the membership of the Foxton Community Board from five elected members and one appointed member, to four elected and two appointed members.

6. Following consideration of submissions, the Council resolved to adopt its initial proposal as its final proposal. It noted that it had rejected submissions requesting wider changes for the following reasons:

- the abolition of the Foxton Community Board would be a significant departure from the Council's initial proposal and there had been insufficient opportunity for consultation on such a significant departure;
- the Foxton Community Board has demonstrated itself as an effective unit of governance;
- the proposal to extend the boundaries of the Foxton Community generated significant public concern and therefore a change at this time is not considered appropriate;
- with regard to the submissions relating to district-wide community boards, a community board for Levin, and the proposal to increase the membership of the Levin Ward by one member, the Council considered that as there was only one submission in favour of each of these proposals, this was not sufficient reason to change from what is considered to be an effective method of representation;
- the proposal to elect one additional member at large was rejected as it did not comply with section 19V(2) of the Act and there was no evidence of wider support from the community to consider taking this matter further; and

¹ It is noted that this suggestion was not part of the Council's proposal.

- the change in membership of the community board allows more effective representation in that both ward councillors will serve on the board.
7. The Council received four appeals on its final proposal.

Hearing

8. The Commission met with the Council, appellants and the Chair of the Foxton Community Board on 26 February 2007. The Council was represented by the Mayor Brendan Duffy, Chief Executive Greg Boyle, and Corporate Projects Officer Ian Tate. The Foxton Community Board was represented by its chair Basil Vertongen. The appellants were Neville Gimblett, Richard Tingey, Christina and George Paton, and Ken Demicol.

Matters raised in appeals and at the hearing

9. The main arguments presented for the disestablishment of the Foxton Community Board were:
- it creates an additional layer of bureaucracy and delays governance processes;
 - reducing the number of elected members of the board by one cannot improve community representation, particularly when the Council has proposed to increase the number of councillors appointed to the board by one (noting that councillors have an obligation to represent the interests of the district as a whole);
 - Foxton is similar to other townships in the district and if the board provides effective representation, why not constitute other community boards;
 - Foxton and Foxton Beach are within 26 and 20 kilometres of Levin, while other communities in the district are further removed from Levin;
 - the Kere Kere Ward is over-represented in comparison to other wards;
 - the board was constituted as a 'trade-off' during the 1989 reorganisation;
 - the costs of the community board could be used to create something tangible for one of the district's communities;
 - the board restricts the benefits of direct consultation with the Council;
 - the board is funded by ratepayers from the whole district, which is unfair for those outside the community (particularly communities that are less affluent than Foxton);
 - economic and population growth in Foxton mean that it is now a desirable place to live and does not need to be subsidised by the district's ratepayers;
 - representation needs to be equal for all residents and communities in the district;
 - the process for considering matters relating to the Foxton Community Board requires formal referral back and forth between the Foxton Community Board (which has seven full meetings scheduled per year) and the Council (which has 10 full meetings scheduled per year), which delays consideration of issues;
 - the board has been inactive in regard to environmental issues affecting the community, and has therefore failed to represent predominant community interests;

- public opposition to the board's proposal to extend its boundaries suggests that the board is not perceived as an effective governance body;
 - the board contributes to a historical sense of Foxton's separation from the remainder of the district and reinforces partisan politics; and
 - the Council has good relationships with other community groups, who serve similar functions to the Foxton Community Board.
10. The main arguments presented for the retention of the Foxton Community Board, in addition to the Council's reasons outlined in paragraph 6, were:
- residents of the Foxton Community generally have a strong sense of local identity, evidenced by high turnout rates at some public meetings and workshops;
 - the Foxton Community is increasingly tourism oriented;
 - Foxton township is the location of a developing retail area, parks and reserves, a swimming pool, Manawatu College, and has separate water and wastewater systems;
 - the Manawatu River provides a visible barrier between Foxton and the remainder of the district;
 - the board served an important role during the 2004 flooding of the Manawatu River, at which time there was no access over the river other than via Shannon;
 - the fact that the board has no financial delegations strengthens the democratic process because it ensures that all recommendations made to the Council are robust. The Council has upheld the vast majority of the board's recommendations;
 - the board liaises with many community groups in the Foxton community; and
 - the board administers the \$2 million Foxton Beach freeholding account and is responsible for recommending to Council the use of freehold land.
11. Arguments relating to the proposed membership arrangements for the Foxton Community Board were:
- the appointment of an additional councillor would strengthen communication between the Council and the board; and
 - this will enable both councillors elected from the Kere Kere Ward to be appointed to the board.
12. The main arguments presented for the constitution of a community board for the Levin Ward were:
- it is a distinct community within the context of the district;
 - it could assist in dealing with a range of issues relevant to the residents of Levin;
 - it would promote a higher standard of community consultation;
 - any additional costs resulting from community boards would be offset by improved governance;

- Levin is a distinct community in that it is an old borough, has a sporting and environmental focus, and is less dependant on farming than surrounding areas; and
- it would be better to allow local people to contribute their knowledge to community governance, and would ensure that the Council is fully aware of local issues.

Matters for Determination

13. The statutory provisions in respect of these appeals and objections are contained in sections 19R, 19H and 19J of the Local Electoral Act 2001 (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.*

Consideration by the Commission

Procedural issue

14. The Commission notes that statements tabled at the Council's hearing of submissions in relation to its initial proposal were not forwarded to it prior to the Commission's hearing of appeals, held on 26 February 2007. The Commission received these statements on 27 February 2007 and was able to take these into account during its deliberations.

Effective and fair representation

15. A review of representation arrangements under the Act is to ensure that:
 - the method adopted for the election of members (i.e. at large, wards, or a combination of both) will provide effective representation of communities of interest within the district (section 19T); and
 - in determining the number of members to be elected by each ward, electors of that ward will receive fair representation (section 19V).
16. For the purpose of achieving fair representation, 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 Act, however, does not define 'effective representation' or 'communities of interest'.
17. The steps in the process for achieving effective and fair representation are not statutorily prescribed. The Commission believes, however, that the following approach to 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 communities of interest; and
 - (c) determine fair representation of electors for the district.

Horowhenua District

18. The Council's proposed arrangements for the number and boundaries of wards, the total number of councillors, and their distribution between wards, were not appealed. The Commission accepts this lack of response as an indication of a level of public satisfaction with current arrangements.
19. The proposed wards are based on existing wards, which the Commission believes are well understood by electors. It is satisfied that the Council's proposed ward structure will continue to provide effective representation for distinct communities of interest.
20. The Council's proposed wards comply with the requirements for fair representation under section 19V(2) of the Act.
21. Based on the factors above, the Commission upholds the Council's proposed ward arrangements for its election in 2007.

Communities and community boards

22. All of the issues raised in appeals related to community boards. These require the Commission to consider:
 - whether the Foxton Community Board should be retained or disbanded;
 - whether a Levin community board should be constituted; and
 - whether community boards should be constituted across the district.
23. The principles of effective representation of communities of interest and fair representation of electors (in the case of electoral subdivisions of communities) apply when considering the constitution or abolition of community boards. In addition, section 19W(a) of the Act requires the Commission to have regard to any of the criteria for considering local government reorganisation proposals under subpart 2 of Schedule 3 of the Local Government Act 2002 (LGA) that it considers appropriate. The key test is whether the proposal will promote good local government of the district and the community concerned.
24. While 'good local government' is not defined in the Act or the LGA, the Commission believes that the purposes of local government contained in section 3 and the principles relating to local authorities contained in section 14 of the LGA, should be taken into consideration. The Commission has also had regard to the provisions of the LGA dealing with community boards, these being Schedule 7, and Subpart 2 of Part 4.
25. Some appellants argued that the Foxton Community Board had made decisions that did not reflect community views and were not in the best interests of the Foxton Community. The Commission believes that this general argument relates to the particular decisions made by the board, and not the community board structure itself. It is not appropriate for the Commission to make judgments on these matters. Indeed, the Commission believes this general criticism of the board's decisions highlights a strength of the community board structure, which is that a board is accountable for its decisions and performance at regular elections.
26. Some appellants argued that the existence of the board resulted in duplication, and inefficient decision-making processes due to the need to refer matters between the Council and the board, and the limited number of scheduled Council and board meetings. The board suggested that a small number of residents were inclined, in the first instance, to address the Council regarding matters that were appropriately dealt with by the community board, and that this extended the time required to consider these issues.
27. Some appellants argued that, in the context of the district, the Foxton Community was no more distinct or deserving of a community board than other areas. They suggested it was unreasonable for the ratepayers across the district to contribute to the costs of the board. The board's chairperson acknowledged that its constitution in 1989 reflected community concern with Foxton's inclusion in the Horowhenua District rather than the Manawatu District. He suggested that this sentiment was no longer widely held and that most residents now considered themselves part of the Horowhenua District. He also suggested that social and economic changes since 1989 had reinforced Foxton's distinct identity. In particular, he noted the increase in tourism ventures, increasing development pressures, and the large number of community groups with interests in the community board area.

28. 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 Foxton Beach freeholding account². 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.
29. 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 Foxton Community Board will be retained for the 2007 elections.
30. The Commission considered the boundaries of the community. The Council had not proposed boundary changes. There appears to be general community support for this. The Commission therefore upholds the Council's decision on this issue.
31. 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.
32. 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.
33. 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.
34. The Commission believes strong community support is vital for the effective functioning of community boards. It has not identified support for an extended board structure. It finds that further boards should not be established at this time. The Commission also notes that electors may initiate a poll calling for the establishment of a community board at any time and not just at the time of periodic reviews of representation arrangements.

² The Freeholding Account is similar to other reserve funds administered by the Council.

Commission's Determination

35. 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 13 October 2007, the following representation arrangements shall apply –
- (1) Horowhenua District as delineated on SO Plan 36029 deposited with Land Information New Zealand, shall be divided into four wards;
 - (2) Those four wards shall be -
 - (a) the Kere Kere Ward, comprising the area delineated on SO Plan 36030 deposited with Land Information New Zealand;
 - (b) the Miranui Ward, comprising the area delineated on SO Plan 36033 deposited with Land Information New Zealand;
 - (c) the Levin Ward, comprising the area delineated on SO Plan 36032 deposited with Land Information New Zealand; and
 - (d) the Waiopehu Ward, comprising the area delineated on SO Plan 36031 deposited with Land Information New Zealand;
 - (3) The Council shall comprise a mayor and 10 councillors, elected as follows -
 - (a) two councillors elected by the electors of the Kere Kere Ward;
 - (b) one councillor elected by the electors of the Miranui Ward;
 - (c) five councillors elected by the electors of the Levin Ward; and
 - (d) two councillors elected by the electors of the Waiopehu Ward.
 - (4) There shall be an Foxton Community, comprising the area delineated on SO Plan 36061 deposited with Land Information New Zealand; and
 - (5) The Foxton Community Board shall comprise five elected members and two appointed members.
36. 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

Sue Piper (Chair)
Gwen Bull (Commissioner)
Wynne Raymond (Commissioner)

29 March 2007