



## LOCAL GOVERNMENT COMMISSION

# Determination

### of representation arrangements to apply for the election of the Napier City Council to be held on 13 October 2007

#### Background

1. The Napier City Council (the Council) elected at the 2004 local elections comprises the mayor and 12 councillors elected at large.
2. Currently Napier City has no community boards.
3. On 21 June 2006 the Council resolved, under sections 19H and 19J of the Local Electoral Act 2001 (the Act), its initial proposed representation arrangements to apply for the 2007 local elections. These were as follows:
  - (a) councillors be elected by the electors of the city as a whole;
  - (b) there be 10 councillors; and
  - (c) there be no community boards within the city.
4. The Council received seven submissions on its initial proposal. One submitter favoured the Council's proposal. The issues raised by the other submitters were as follows:
  - four opposed the reduction in the number of councillors from 12 to 10 and considered there should be a ward system;
  - one opposed the decision "to deny the right for community boards to exist"; and
  - two proposed that councillors be elected by a mixed system of partly at large and partly by wards.
5. Following consideration of submissions the Council, on 6 September 2006, agreed its final proposal for a total of 12 councillors (and the mayor) elected by the electors of the city as a whole, and that there be no community boards in the city.
6. Six appeals/objections were received against the Council's proposal. The main issues raised by the appellants/objectors were:
  - opposition to the decision to retain the at large basis of election;

- the failure of the Council to recognise the need for effective representation of diverse communities of interest;
- the reliance the Council placed on the 1995 referendum and 2005 survey; and
- support for a mixed system of representation.

## **Hearing**

7. The Commission met with the Council and appellants/objectors at a hearing held in the Napier City Council Chambers on 31 January 2007. The Council was represented by the Mayor Barbara Arnott, the Council's Chief Executive Officer Neil Taylor and the Electoral Officer Warren Burch. The appellants/objectors who appeared at the hearing were: Les Hewett, Maxine Boag and Catherine Clarkson from the Maraenui Community Council Trust, Pat Magill from the Napier Pilot City Trust, Gill Appleton and Bob Morrison from the Taradale & District Community Development Association, and Derek Williams.

## **Matters raised in appeals, objections and at the hearing**

8. The main arguments presented in relation to the basis of election (i.e. wards, at large or a mix of both) were:
  - Napier is a small compact city of 10,000 hectares interlinked by common services;
  - Napier is one geographical community of interest with only a small rural sector;
  - the Council's annual community surveys have shown a consistency of interests by respondents and no distinct separate communities of interest;
  - the city has major city-wide issues to address and it was important for the Council to present a cohesive and consistent response to these;
  - the Council works well with the network of residents/ratepayers associations and other community groups in the interests of particular areas;
  - a mixed system is the best of both worlds allowing both a city-wide view relating, for example, to city-wide interests such as promotion of tourism and Napier's 'art deco' theme, and at the same time encouraging local community networking and community development initiatives;
  - a mixed system would enhance representation, including for minority groups;
  - at large elections favour the majority group at the expense of minorities;
  - under the present at large system, councillors came from a few 'better-off' areas;
  - a mixed system would enhance the accountability of councillors to the community;
  - the Council's practice of allocating councillors to different areas does not provide the same incentive as direct electoral accountability;

- a mixed system may address present apathy about voting at local elections;
  - rejection of the ward system following the 1995 referendum reflected in large part tensions between the mayor, councillors and chief executive of the time;
  - if Napier was one community of interest, so too were most cities in New Zealand;
  - the Council had no Māori or Pacific Island councillors;
  - Napier has a number of distinct communities of interest based on socio-economic and ethnic factors, geographic features such as the seascape and coastal erosion issues, and areas with commonalities such as Taradale and Greenmeadows distinct from the central business district.
9. The appellants who addressed the issue of the number of councillors were opposed to a reduction in numbers as this decreased community representation. They supported the Council's final proposal to retain 12 councillors.

### **Matters for Determination**

10. The statutory provisions in respect of objections 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.*

### **Consideration by the Commission**

#### *Effective and fair representation*

11. 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).
12. 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 does not define 'effective representation' or 'communities of interest'.
13. The steps in the process for achieving effective and fair representation are not statutorily prescribed. The Commission believes that the following approach to determining representation arrangements will achieve a robust outcome that is in accordance with the statutory criteria:
  - (a) identify the city'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 city.

#### *Napier City*

14. All the appeals/objections related to the basis of election for electing councillors. Accordingly this is the key issue that the Commission must address.
15. The Council has been elected by electors of the city as a whole since 1998. Prior to that the city was divided into three wards as follows:

- Ahuriri Ward;
  - Taradale Ward; and
  - Onekawa Ward.
16. We heard from all the appellants/objectors that Napier has a diversity of communities of interest and these justified separate representation by way of wards. The appeals/objections were based on the argument that an at large system of representation does not provide effective representation for communities of interest, as required by the Act.
  17. The Maraenui Community Council Trust submitted that “Degrees of Deprivation in New Zealand – An Atlas of Socio-economic Difference” demonstrates the diversity of Napier City. It identifies over 7,000 residents (approximately 13% of the total population) in decile 10 (most deprived). It also identifies that well over half the residents of Napier live in the areas of highest deprivation, being deciles 6 to 10. Other appellants/objectors referred to an article in the *Napier Mail* on 19 April 2006 entitled “The Two Napiers”, depicting the other side of Napier not represented on the Council, as further evidence of difference and diversity.
  18. We were advised, on the other hand, that only three members of the current Council (23%) lived in the areas of highest deprivation (the bottom five deciles). The remaining councillors all come from Taradale, Greenmeadows and Bluff or Hospital Hill; areas of lower deprivation.
  19. We did point out to appellants/objectors that there was no requirement for residency in the area for which a candidate is elected and therefore there was no guarantee, under a ward system, that councillors would reside in all areas of the city. This was accepted, but many appellants/objectors still considered that a ward system provided more accountability to electors across the city and would enhance the effectiveness of representation. On balance, we accept that a ward system is likely to result in a better geographical spread of representatives across the city than at present.
  20. The Maraenui Community Council Trust also provided us with a profile of the high decile (high deprivation) suburb of Maraenui. This demonstrated quite graphically comparative statistics on issues such as unemployment, emergency housing and number of single parents for the suburb, compared to the city as a whole.
  21. Following consideration of the arguments and material presented to us, we are not persuaded by the Council’s argument that Napier is one geographic community of interest. If this were the case, as was pointed out to us, many of New Zealand’s communities would be seen similarly to be one community of interest. We note that currently only Upper Hutt, Nelson and Invercargill cities have an at large system of representation.
  22. We believe that a form of ward system would enhance the effectiveness of representation of communities of interest in Napier.
  23. We did hear the view expressed by a number of the appellants/objectors that a mixed system would be “the best of both worlds”. It would enhance the representation of distinct communities of interest, while also facilitate promotion of the interests of the city as a whole, in areas such as tourism,

including in particular promotion of Napier's unique art deco character, economic development and infrastructural service provision.

24. In summary, we agree with elements of the arguments put by both the advocates for a form of ward system, and the Council in terms of city-wide promotion and development. We believe a mixed system of representation can meet expectations in both respects and we determine accordingly.
25. In considering the possible configuration of wards for Napier, we are required to meet the fair representation (+/-10% rule) requirement in section 19V(2) of the Act. We considered the ward structure as it existed in 1995. We were also guided by the arguments that the case for the establishment of wards is based on the diversity of particular communities of interest in the city and the wards should therefore reflect this as much as possible.
26. The Taradale and District Community Development Association submitted a possible four-ward structure reflecting what it considered to be an appropriate mechanism for providing effective representation of communities of interest in Napier City. The Association submitted that it believed this structure would comply with the +/-10% rule. We have considered the suggested structure and modified it slightly. This is to ensure that the wards are more geographically cohesive. This structure is based on four groupings of communities of interest (defined here in terms of statistical area units) as follows:
  - *Ahuriri Ward*: comprises Bayview, Westshore, Ahuriri, Bluff Hill, Hospital Hill and the northern part of Onekawa West;
  - *Onekawa-Tamatea Ward*: comprises Onekawa Central, Onekawa West, Tamatea North, Tamatea South, northern part of Pirimai, and the northern part of Marewa (i.e. consisting of all meshblocks north of Kennedy Road);
  - *Nelson Park Ward*: comprises Nelson Park, McLean Park, Onekawa South, Maraenui, area of Marewa south of Kennedy Road, area of Pirimai south of Kennedy Road, and the most northern meshblock of Awatoto; and
  - *Taradale Ward*: comprises Taradale South, Taradale North, Greenmeadows, Poraiti, Meeanee and Awatoto (except the most northern meshblock).
27. We note that currently the Council comprises 12 councillors. The Council initially proposed reducing this number to 10 but, on hearing submissions, agreed as part of its final proposal to retain 12 councillors. In notifying its final proposal the Council stated:
  - an NRB survey in 2005 indicated a 59% preference for the status quo of 12 councillors and a 3% preference for an increase, versus 31% for a reduction;
  - submissions received on the Council's initial proposal mainly supported retaining the current level of representation; and
  - 12 councillors provide a wider range of viewpoints around the table.

28. We heard no arguments at the hearing supporting a reduction in the number of councillors and accordingly we determine that the total number of councillors will remain at 12. On this basis, and after taking account of the requirements of section 19V(2) for fair representation in relation to wards, we determine that six councillors will be elected at large and six councillors will be elected by wards as follows:

Wards	Population*	Number of councillors per ward	Population per councillor	Deviation from city average population per councillor	Percentage deviation from city average population per councillor
Ahuriri	9,810	1	9,810	+376.67	+3.99
Onekawa-Tamatea	9,730	1	9,730	+296.67	+3.14
Nelson Park	17,750	2	8,875	-558.33	-5.92
Taradale	19,300	2	9,650	+216.67	+2.30
<b>TOTALS</b>	<b>56,600</b>	<b>6</b>	<b>9,433.33</b>		

\*These figures are rounded 2006 population estimates, being the most up-to-date available, provided by the Government Statistician

#### *Communities and community boards*

29. Section 19W of the Act sets out criteria for community board reviews. These include requirements for effective representation of communities of interest within the community and fair representation of electors.
30. No appeals/objections were received on the establishment of community boards in Napier City. On this basis we find that no boards should be established at this time. We note 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.

#### **Commission's Determination**

31. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Napier City Council to be held on 13 October 2007, the following representation arrangements shall apply –
- (1) Napier City as delineated on SO Plan 9830 deposited with Land Information New Zealand, shall be divided into four wards;
  - (2) Those four wards shall be -
    - (a) the Ahuriri Ward, comprising the area delineated on SO Plan 386665 deposited with Land Information New Zealand;
    - (b) the Onekawa-Tamatea Ward, comprising the area delineated on SO Plan 386668 deposited with Land Information New Zealand;
    - (c) the Nelson Park Ward, comprising the area delineated on SO Plan 386667 deposited with Land Information New Zealand; and
    - (d) the Taradale Ward, comprising the area delineated on SO Plan 386666 deposited with Land Information New Zealand;
  - (3) The Council shall comprise the mayor and 12 councillors elected as follows -

- (a) one councillor elected by the electors of the Ahuriri Ward;
- (b) one councillor elected by the electors of the Onekawa-Tamatea Ward;
- (c) two councillors elected by the electors of the Nelson Park Ward;
- (d) two councillors elected by the electors of the Taradale Ward;  
and
- (e) six councillors elected by the electors of the city as a whole.

32. 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)

10 April 2007