



**LOCAL GOVERNMENT COMMISSION  
MANA KĀWANATANGA Ā ROHE**

## **Determination**

**of representation arrangements to apply for  
the election of the Tauranga City Council  
to be held on 9 October 2010**

### **Background**

1. The Tauranga City Council (the Council) elected at the 2007 local elections comprises the Mayor and 10 councillors. Seven of the 10 councillors were elected by the electors of the City as a whole (i.e. at large representation). Three of the 10 councillors were elected by wards as follows:

| <b>Wards</b>            | <b>Population*</b> | <b>Number of councillors per ward</b> | <b>Population per councillor</b> | <b>Deviation from city average population per councillor</b> | <b>% deviation from city average population per councillor</b> |
|-------------------------|--------------------|---------------------------------------|----------------------------------|--|--|
| Mount Maunganui-Papamoa | 39,200             | 1                                     | 39,200.00                        | +2,333.33  | +6.33  |
| Otumoetai-Bethlehem     | 31,700             | 1                                     | 31,700.00                        | -5,166.67  | -14.01   |
| Te Papa-Welcome Bay     | 39,700             | 1                                     | 39,700.00                        | +2,833.33  | +7.69  |
|                         | <b>110,600</b>     | <b>3</b>                              | <b>36,866.67</b>                 |  |  |

\* population estimates provided by the Government Statistician at 30 June 2008

2. There are no community boards in Tauranga City.
3. On 9 June 2009 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 2010 local elections. The Council's initial proposal was to:
  - (a) elect 10 councillors at large (i.e. disestablish the three existing wards)
  - (b) not constitute any community boards.
4. The Council received 35 written submissions<sup>1</sup> in the period 15 June to 17 July 2009. An analysis of the submissions showed that:
  - (a) 2 submitters supported the Council's proposal (i.e. the election of all councillors at large)

<sup>1</sup> On 11 August 2009, six submitters made oral presentations to the Council.

- (b) 19 submitters supported the status quo arrangements (three councillors elected by wards and seven elected at large)
  - (c) 2 submitters supported retaining some form of mixed (at large and wards) representation arrangements
  - (d) 10 submitters supported the election of all councillors by wards
  - (e) 2 submitters supported an increase in the total number of councillors
  - (f) 1 submitter supported the constitution of either one or two community boards for the Mount Maunganui and Papamoa areas
  - (g) 1 submitter supported the constitution of a Māori ward.
5. Following its consideration of submissions, the Council, on 11 August 2009, agreed that its final proposal be the same as its initial proposal.
6. The Council publicly notified its final proposal on 28 August 2009. It recorded the following reasons for rejecting matters raised in objections to its initial proposal:
- a distinction between different communities of interest from a geographical, social and cultural perspective within Tauranga City was not warranted as all parts of the City contained a similar mix
  - elected members had a responsibility to do what was fair and equitable for the whole of the community and the public had a right to vote for all members they wished to represent them and who set their rates
  - the current mix of two representative systems was confusing for constituents and voters.
7. A total of seven appeals against the Council's final proposal were received.

## **Hearing**

8. The Commission met with the Council and appellants at a hearing held at the Tauranga City Council on 11 December 2009. The Council was represented by the Mayor Stuart Crosby, supported by Governance Manager Yvonne Tatton. The appellants who appeared at the hearing were: Allan Goodhall, Papamoa Progressive Association Incorporated (represented by Neville Dixon), Don Sweet, Hugh Hughes, David Burnett and the Mount Maunganui Progressive Association Incorporated (represented by David Burnett).

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

9. The following were the main points presented in relation to the concept of communities of interest as it applies to Tauranga City.
- (a) The Papamoa and Mount Maunganui areas contain recognisably distinct communities of interest warranting specific representation, as evidenced by:
    - (i) residents' sense of identity associated with the landscape, history and culture of the Papamoa and Mount Maunganui areas
    - (ii) the distinct geography of the coastal strip area and its access via the harbour bridge to the remainder of the City

- (iii) a strong focus on leisure and tourism within the Mount Maunganui and Papamoa commercial and township areas
  - (iv) issues of particular local importance, including those associated with:
    - high visitor numbers during summer
    - high population growth and associated infrastructural issues (e.g. the Ministry of Education is building a new secondary school and a new primary school in the Papamoa area)
    - dune erosion and tsunami risk
    - sand dune encroachments, traffic management and pedestrian crossings, bridge tolls, and liquor bylaws
  - (v) residents' shared dependence on services and facilities such as schools (including Mount Maunganui College), retail centres and clubs (e.g. the Mount Maunganui Croquet Club).
- (b) Many Tauranga City residents would:
- (i) identify with a local community at a sub-district level in addition to identifying with the community of Tauranga City as a whole
  - (ii) be able to identify distinct features between local communities of interest within Tauranga City.
- (c) The Council considered that Tauranga City should be recognised, for the purposes of the representation review, as a single community of interest because:
- (i) it is one of the smallest cities in New Zealand based on land area, with a mainly urban population
  - (ii) the development of community facilities, more effective roading networks and public transport systems are breaking down historic community divisions by creating more efficient connections and linkages across the whole City (e.g. there are 3,000 to 3,200 cars traveling daily between the Mount Maunganui-Papamoa and Te Papa-Welcome Bay Wards using the Harbour Link and between 2,100 and 2,400 cars using the Hairini Bridge)
  - (iii) residential development is occurring in many locations across the whole City rather than a single area
  - (iv) the major issues facing Tauranga are city-wide rather than confined to specific communities of interest, and residents and the Council are predominantly concerned with city-wide issues
  - (vi) there is a similar demographic mix (i.e. socio-economic/ethnic composition) of communities of interest across the three existing wards
  - (viii) while the Council recognises the coastal strip as traditionally a beach and recreation environment, it is now, in the main, an urban environment with growth issues similar to inner harbour urban environments on other peninsulas.

10. The following were the main points presented in relation to overall Council membership.

- (a) The current membership of 10 plus the Mayor:
  - (i) provides for the effective representation of communities of interest

- (ii) has proven more effective than the previous 13-member (plus the Mayor) model, creating decision-making and debating efficiencies.
  - (b) An uneven number of members (i.e. 10 plus the Mayor) is preferable as it generally avoids the need for a casting vote.
11. The following were the main points presented by the Council in support of at large representation arrangements.
- (a) Wards create the perception that the member is there to represent their ward during Council decision-making, which is not a true perception as all councillors declare an oath to serve the interests of the whole City.
  - (b) The Council uses a wide range of consultation and community engagement processes<sup>2</sup>, and has developed effective relationships with a wide network of community, government, and interest groups<sup>3</sup>, to assist councillors' awareness of community and resident views.
  - (c) Residents have the choice to approach any councillor, not just the councillor elected from their ward.
  - (d) At the 2007 election, there was a fairly even spread of candidates residing across all ward areas<sup>4</sup>. There was an even spread of members elected at large<sup>5</sup>.
  - (e) At large representation enables electors to vote for all members of the Council. If all members were to be elected by wards, this would effectively disenfranchise the voters by only allowing them to elect up to 30% of the members of the Council (excluding the Mayor).
  - (f) Retention of mixed ward/at large representation arrangements requires a boundary adjustment that would split the Pyes Pā community of interest.
  - (g) The division of the City into two wards would perpetuate historic divisions between the coastal strip and the remainder of Tauranga City.
  - (h) Wards will likely require future boundary changes in order to comply with fair representation requirements. This undermines awareness of boundaries and can be seen to create artificial boundaries.
12. The following were the main points presented by appellants in support of some or all members of the Council being elected from wards.
- (a) It will provide for better democratic participation than at large representation arrangements because:
    - (i) it is much easier for people to make an informed selection of, for example, three candidates from eight to 10 candidates standing for election by ward, rather than have to choose, say, 10 from potentially 30 to 50 candidates
    - (ii) there are a high number of new residents in the City who do not have prior knowledge of councillors or candidates
    - (iii) it is generally more difficult and expensive for candidates to stand at large

<sup>2</sup> Including an interactive website, monthly publications, a community monitoring group, texting and internet forums, public meetings, councillor and mayoral clinics, and feedback forms.

<sup>3</sup> Examples include Smartgrowth, Tauranga Tomorrow, Elders Forum, and Kaumatua Forum.

<sup>4</sup> Of the 28 candidates standing at large at the 2007 elections: nine resided in the Mount Maunganui-Papamoa areas, 11 resided in the Te Papa-Welcome Bay areas, and eight resided in the Otumoetai-Bethlehem areas.

<sup>5</sup> Of the seven members elected at large, three resided in the Otumoetai-Bethlehem Ward, two (plus the Mayor) resided in the Mount Maunganui-Papamoa Ward, and two resided in the Te Papa-Welcome Bay Ward.

- (iv) candidate debates would become unwieldy
  - (v) name recognition (of, for example, incumbent councillors or sporting figures) or membership to a political grouping would likely become more important to electoral success.
- (b) Ward representation will promote the Council's ability to perform its role and functions because ward-based elections will tend to enhance:
- (i) residents' awareness of councillors to approach
  - (ii) accessibility between councillors and constituents
  - (iii) effective, ongoing engagement between councillors, community groups and residents (i.e. regular attendance at community group meetings)
  - (iv) councillor interest and awareness of issues specific to the ward, which leads to more informed decision-making by the Council
  - (v) councillor accountability to residents/community groups
  - (vi) the geographical spread of councillors from across the City (including new residential areas).
13. The following were the main points specifically associated with the existing mixed (ward and at large) representation arrangements.
- (a) It adds to the complexity of voting.
  - (b) It creates an impression there are two classes of councillor with seven chances for candidates to be elected at large and only one chance of being elected from a ward.
14. The following were the main points made in relation to community boards.
- (a) A community board for the Mount Maunganui/Papamoa areas would provide a mechanism to enhance engagement and consultation between these communities and the Council.
  - (b) A community board could achieve a level of credibility and assistance from the public and the Council that can not be achieved by, for example, a residents' association.
  - (c) A full ward system would negate the need for a community board.
  - (d) The constitution of a single community board would create an unfair imbalance in the City's representation arrangements.
  - (e) The City's compact geographical nature, the similarities between its communities, the Council's use of engagement processes and its relationships with community and interest groups, suggest that the constitution of a community board is not necessary and would not be cost-effective.

### **Matters for Determination**

15. The statutory provisions in respect of objections and appeals 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.*

**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.*

## Consideration by the Commission

### *Effective and fair representation*

16. 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)
  - in determining the number of members to be elected by each ward, electors of that ward will receive fair representation (section 19V).
17. 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'.
18. 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
  - (c) determine fair representation for electors of the City.

### *Tauranga City*

19. Tauranga is one of the smaller city council areas in New Zealand, comprising an approximate total area of 17,500 hectares<sup>6</sup>.
20. Tauranga is a rapidly growing City<sup>7</sup> with an estimated population of 110,600<sup>8</sup>.
21. We believe that, within Tauranga City, geographically defined communities of interest at the sub-city level can generally be identified by recognised suburbs (some of which can be seen to overlap and merge into each other). While the appellants and submitters in this case spoke mostly about the coastal strip communities, we believe that many Tauranga City residents would be able to identify characteristics that broadly distinguish these suburb communities of interest<sup>9</sup> from each other, whether it be by reference to perceptual characteristics (e.g. socio-economic indicators and geographical features), functional characteristics (e.g. where people go to school, shop or pursue recreational interests), or political characteristics.
22. We believe the Council's representation review process would have been enhanced by a more explicit and detailed focus on the nature of communities of interest at the sub-city level, making better use of the community of interest factors outlined in the Commission's 'Representation Review Guidelines'.

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<sup>6</sup> Including areas of water within the City boundaries.

<sup>7</sup> Between the 2001 census and the 2006 census, the total city population grew by 14%.

<sup>8</sup> Estimate provided by the Government Statistician as at 30 June 2008.

<sup>9</sup> For example, the suburbs of Bethlehem, Greerton, and Papamoa.

### *Basis of election*

23. The key contention in this case is whether members should be elected at large, wholly by wards, or by a mix of wards and at large. In summary, debate focused on two general themes relating to reasonable access between:
- (a) candidates and voters at election time (i.e. voter participation and potential voter confusion)
  - (b) residents, communities and councillors (i.e. ongoing representation and engagement).
24. It is difficult to draw conclusive linkages between voter confusion and the range of variables applying to local elections. We are not convinced by the information in support of the Council's assertion that the mixed system applying for the 2004 and 2007 elections had proven confusing for electors. Declining voter turnout is consistent with national trends. The return of blank voting documents cannot necessarily be attributed to voter confusion or the mixed representation arrangements.
25. Appellants suggested that at large elections would be more confusing for electors than the existing mixed representation arrangements because, they argued, it is easier to make an informed selection on three candidates from, say, eight to 10 candidates standing for election by ward, rather than to have to choose 10 from potentially 30 to 50 candidates standing at large. We have previously noted<sup>10</sup> that the incidence of blank and informal voting documents tends to increase in circumstances where there are a large number of candidates.
26. With regard to reasonable access between residents/communities and the Council, we note that Tauranga City's population is significantly larger than other New Zealand councils with at large representation arrangements<sup>11</sup>. We observe that wards provide a mechanism to ensure *fair*<sup>12</sup> geographical coverage of members from across the City. The City's population size, combined with rapid population growth and the evidence of the existence of local communities of interest within Tauranga, suggests to us that the retention of wards, rather than at large elections, will enable a more easily understood, manageable and, ultimately, effective relationship between residents/community groups and councillors.
27. The Council proposes to retain its existing total membership of 10 councillors and the Mayor. No appellant specifically objected to this, though some sought an increase to 11 members plus the Mayor, primarily on the basis that this would enable a full ward representation model compliant with the 10% rule. We are satisfied that the existing total Council membership is appropriate at this time.
28. We believe that the Council's representation arrangements will be strengthened by the election of two members from each of the three existing wards (subject to an appropriate boundary adjustment), with an additional four members (plus the Mayor) elected at large. In our view, of the range of practicable options available, this balance of membership provides the following overall advantages.

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<sup>10</sup> See page 135 'Review of the Local Government Act 2002 and Local Electoral Act 2001', Local Government Commission/Mana Kāwanatanga ā Rohe', July 2008, Wellington.

<sup>11</sup> Other Councils with at large elections include: Rotorua District population 68,110, Invercargill City population 51,600, Nelson City population 44,700, Wanganui District population 43,200. (Population estimates provided by the Government Statistician at 30 June 2008.)

<sup>12</sup> Wards are subject to the requirement for fair representation for electors, as set out in section 19V(2) of the Act.

- (a) It protects the geographical coverage of members and ensures a fair population to member ratio across the City.
- (b) It enables electors to vote for a majority of the members of the Council (i.e. each elector will be able to vote for two ward members, four at large members, and the Mayor, which is seven members out of a total of 11 members).
- (c) It provides residents with a choice of ward-elected members to approach.
- (d) It allows for more diversity of ward-elected councillors than under single-member wards.
29. Retention of mixed ward/at large representation arrangements requires a boundary adjustment between the Otumoetai-Bethlehem and Te Papa-Welcome Bay Wards<sup>13</sup>. The current ward boundary follows the natural geographical boundaries of the harbour and the State Highway along the Kopererurua Valley where there is limited population. We agree with the Council that the only realistic boundary adjustment could occur in the inland Pyes Pā area. The Council rejected an option to transfer the area west of Pyes Pā Road on the basis that the resultant boundary would split a recognised community of interest (i.e. Pyes Pā).
30. We believe an appropriate ward boundary can be achieved by extending the boundary of the Otumoetai-Bethlehem Ward along the south of State Highway 29 to the Pukekonui Stream, then following the stream to the outer boundary of Tauranga City. The Pukekonui Stream and the industrial area on the northern side of State Highway 29 provide easily recognisable boundaries between residents either side. This boundary extension aligns with the Pyes Pā area unit, as determined by Statistics New Zealand. The ward will be named Otumoetai-Pyes Pā to reflect its geographical scope. We have made additional minor adjustments, that do not affect population, to the remaining boundary between the Te Papa-Welcome Bay and Otumoetai-Pyes Pā Wards.
31. The relationship between these decisions on ward boundaries, the number of councillors per ward, and the population requirements of section 19V(2) is illustrated in the following table:

| Wards                   | Population*    | Number of councillors per ward | Population per councillor | Deviation from city average population per councillor | % deviation from city average population per councillor |
|-------------------------|----------------|--------------------------------|---------------------------|---|---|
| Mount Maunganui-Papamoa | 39,200         | 2                              | 19,600                    | 1,166.67  | +6.3  |
| Otumoetai-Pyes Pā       | 34,860         | 2                              | 17,430                    | -1,003.33   | -5.4  |
| Te Papa-Welcome Bay     | 36,540         | 2                              | 18,270                    | -163.33   | -0.9  |
| <b>Total</b>            | <b>110,600</b> | <b>6</b>                       | <b>18433.33</b>           |   |   |

### *Communities and community boards*

32. 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.

<sup>13</sup> Compliance with section 19V(2) of the Act requires the transfer of at least 1,500 residents from the Te Papa-Welcome Bay Ward to the Otumoetai-Bethlehem Ward.

33. Currently there are no community boards in Tauranga City. The Council proposes not to establish any for the 2010 elections.
34. Only one appellant sought a community board for the Mount Maunganui and Papamoa areas. The appellant suggested that the purpose of a community board would be to manage consultation and engagement with, and act as an advocate for, residents and community groups. We believe that effective council-community engagement can be developed through the retention of wards combined with the Council's ongoing commitment to a range of community engagement processes.
35. We agree with the Council that no community boards should be constituted for the 2010 local elections.

### **Commission's Determination**

36. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Tauranga City Council to be held on 9 October 2010, the following representation arrangements shall apply –
  - (1) Tauranga City as delineated on SO Plan 334308 deposited with Land Information New Zealand, shall be divided into three wards.
  - (2) Those three wards shall be -
    - (a) the Mount Maunganui-Papamoa Ward, comprising the area delineated on SO Plan 60086 deposited with Land Information New Zealand
    - (b) the Otumoetai-Pyes Pā Ward, comprising the area delineated on SO Plan 428080 deposited with Land Information New Zealand
    - (c) the Te Papa-Welcome Bay Ward, comprising the area delineated on SO Plan 334306 deposited with Land Information New Zealand.
  - (3) The Council shall comprise the Mayor and 10 members elected as follows -
    - (a) two members elected by the electors of the Mount Maunganui-Papamoa Ward
    - (b) two members elected by the electors of the Otumoetai-Pyes Pā Ward
    - (c) two members elected by the electors of the Te Papa-Welcome Bay Ward
    - (d) four members elected by the electors of the City as a whole.

### **THE LOCAL GOVERNMENT COMMISSION**

Sue Piper (Chair)

Gwen Bull (Commissioner)

Grant Kirby (Commissioner)

3 February 2009