



Determination

of representation arrangements to apply for the election of the
Horowhenua District Council to be held on 8 October 2022

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. Representation reviews are to determine the number of councillors to be elected, the basis of election for councillors and, if this includes wards, the boundaries and names of those wards. Reviews also include whether there are to be community boards and, if so, arrangements for those boards. Representation arrangements are to be determined so as to provide fair and effective representation for individuals and communities.
2. The Horowhenua District Council (the Council) last reviewed its representation arrangements prior to the 2019 local authority elections. In May 2021 it resolved to establish Māori wards. Accordingly, it was required to undertake a review prior to the next elections in October 2022.
3. The Commission last made a determination in relation to the Council's representation in 2019. The council's current representation arrangements have been in place since and are as follows:
 - (i) a council comprising 10 members elected from four wards as below, plus the Mayor elected at large:
 - Kere Kere Ward, electing 2 councillors
 - Miranui Ward, electing 1 councillor
 - Levin Ward, electing 5 councillors
 - Waiopēhu Ward, electing 2 councillors
 - (ii) The Foxton Community Board comprised of five elected members and two appointed members

Current review: Council process and proposal

4. On 11 August 2021 the Council resolved as its initial representation proposal a council comprising 9 members elected from 4 wards, plus the mayor. The Council also resolved to retain its existing community board, proposing a name change to Te Awahou Foxton Community Board.
5. The initial proposed ward arrangements were as follows:

Ward	Electoral population estimate*	Number of councillors per ward	Population per councillor	Deviation from district average pop ⁿ per councillor	% deviation from district average pop ⁿ per councillor
Kere Kere-Miranui General	8,170	2	4,085	208	+5.35
Levin General	15,461	4	3,865	-12	-0.32
Waiopehu General	7,389	2	3,695	-183	-4.72
Total General	31,020	8	3,878		
Horowhenua Māori	5,060	1	5,060	N/A	N/A
Total	36,080	9			

*Based on 2018 census figures

6. The Council received 226 submissions to its initial proposal. The submissions covered a range of issues, including clear opposition to the combination of the Kere Kere and Miranui Wards and in that context to the continuation of Te Awahou Foxton Community Board.
7. On 20 October 2021, the Council heard and considered submissions received on its initial proposal. Having considered all submissions, the following changes were made to the initial proposal:
 - *The number of general wards will be increased to four by returning the merged Kere Kere-Miranui ward to two separate wards, being Kere Kere and Miranui;*
 - *The number of general councillors be increased to 10 (Kere Kere (2), Miranui (1), Levin (5) and Waiopehu (2)) and the number of Māori councillors be increased to two, from a single Horowhenua (Māori) Ward; and*
 - *The boundaries of the Te Awahou Foxton Community Board be extended*
8. The Council's final proposal for the 2022 local elections is as follows:

Ward	Electoral population estimate*	Number of councillors per ward	Population per councillor	Deviation from district average pop ⁿ per councillor	% deviation from district average pop ⁿ per councillor
Kere Kere General	5,480	2	2,740	-360	-11.61
Miranui General	2,840	1	2,840	-260	-8.39
Levin General	15,800	5	3,160	60	+1.94
Waiopehu General	6,870	2	3,435	335	+10.81
Total General	31,000	10	3,100		
Horowhenua Māori	5,060	2	2,530	N/A	N/A
Total	36,060	12			

*Based on Tauranga Aotearoa Stats NZ 2020 electoral population estimates

9. The Council also resolved to retain the existing Foxton Community Board, renamed Te Awahou Foxton Community Board and with extended boundaries. It is proposed to comprise of five elected members and one appointed member.
10. Given the non-compliance of the proposed wards, the Council was required under section 19V(4) of the Act to refer its proposal to the Commission for determination. In addition, two appeals against the proposal were received.

Appeals/objections against the council's final proposal

11. The two appeals received on the Council's final proposal were considered valid and covered the following matters:
 - A mixed-model representation system including two general wards, a 'rural' ward and an 'urban' ward, sitting alongside the district-wide Māori ward. The appeals propose that two members be elected from each of the three wards, with a further four members elected at-large;
 - Disestablish the Te Awahou Foxton Community Board and replace it with three community boards representing the proposed rural, urban and Māori wards.
12. The Council referred the appeals and objections to the Commission, in accordance with section 19Q of the Act.

Need for a hearing

13. 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 need for a hearing is determined by the information provided by the parties and as a result of any further inquiries the Commission may wish to make.
14. In the case of Horowhenua District Council's final proposal, the Commission considered there was sufficient information in the documentation provided by the Council on the process it had followed in making its decision and in the appeals for the Commission to proceed to a determination. Accordingly, it was decided no hearing was required.

Matters for determination by the Commission

15. 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.

16. The Council's review process is not one of the matters set out in sections 19H and 19J. Any concerns expressed by appellants and objectors relating to the council's review process are not a basis for the Commission to overturn a council's proposal. The Commission may, however, comment on a council's process as part of its determination.
17. The matters in the scope of the review are:
 - whether the council is to be elected from wards, the district as a whole, or a mixture of the two
 - the number of councillors
 - if there are to be wards, the area and boundaries of wards and the number of members to be elected from each ward
 - whether there are to be community boards
 - if there are to be community boards, the area and boundaries of their communities, and the membership arrangements for each board.

Key considerations

18. Based on the legislative requirements, the Commission's Guidelines for local *authorities undertaking representation reviews* (the Guidelines) identify the following three key factors when considering representation proposals:
 - a. communities of interest
 - b. effective representation of communities of interest
 - c. fair representation for electors.

Communities of interest

19. The Guidelines identify three dimensions for recognising communities of interest:
 - a. *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
 - b. *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
 - c. *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.
20. 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.

21. In addition to 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.
22. The Council has described its communities of interest as contained with wards as follows:

Kere Kere General Ward	The general electoral population from the townships of Foxton and Foxton Beach, and surrounding rural areas
Miranui General Ward	The general electoral population from the townships of Shannon, Tokomaru and Ōpiki and surrounding rural areas
Levin General Ward	The general electoral population from the town of Levin
Waiopehu General Ward	The general electoral population from the townships of Waitarere Beach, Ōhau, Waikawa Beach and Manukau and surrounding rural areas

23. We are satisfied that, as a starting point, these are reasonable groupings of communities of interest.

Effective representation of communities of interest

24. 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 combination of both) will provide effective representation of communities of interest within the district
 - 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).
25. 'Effective representation' is not defined in the Act, but the Commission sees this as requiring consideration of factors including an appropriate number of elected members and an appropriate basis of election of members for the district concerned (at large, wards, or a mix of both).
26. The Commission’s Guidelines note that what constitutes effective representation will be specific to each local authority but that the following factors should be considered:
 - 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.
27. Within the scope of a representation review, councils can achieve effective representation of communities of interest by having members elected by wards, at large, a mixture of wards and at large. As the Council has resolved to establish Māori wards, it must also establish at least one general ward.
 28. While not a prescribed statutory requirement, the Guidelines suggest that local authorities consider the total number of members, or a range in the number of members, necessary to provide effective representation for the district as a whole. In other words, the total number of members should not be arrived at solely as the product of the number of members per ward, if there are to be wards.
 29. The mixed model representation arrangements proposed by the appellants are not possible within the constraints of the Act. The formula in Schedule 1A of the Act requires that the total number of ward members be used to calculate the number of Māori ward members for the district, at large members are specifically excluded from the formula. Under the formula, a minimum of 11 ward members is required to support two Māori ward members for the district. With six ward members, as per the appellants' proposal, only one Māori ward member would be permitted.
 30. The Council confirmed in its final proposal that there should be two Māori ward members for the district and the number of ward councillors was increased to support this outcome. There is clear support through submissions to the Council's process for two Māori ward members, with a number including comments regarding the difficulty that one Māori ward member would have in covering the entire district.
 31. Both appellants state that their preference is for a mixed model with equal numbers of ward members elected by each ward. The appellants both note the Council's proposed benefits of establishing a Māori ward in helping to bring forward the views and aspirations of whanau, hapū and iwi on Council matters and helping to ensure local decision making is fairer and more inclusive.
 32. The Council considered mixed model arrangements and formed its preference for retaining a ward system, with no benefit seen in electing at-large members. Council considered that, at this point in time, ward representation continues to be effective for the district.
 33. The appeals received also suggest a rural general ward and an urban general ward. The Council considered the possibility of an urban/rural general ward split as part of its process. However, it dismissed this as an option for further exploration, noting that there are distinct communities of interest in the district that require separate representation.
 34. The Council noted that there were some similarities between the Kere Kere and Miranui wards, including rural roading issues, a range of rural community resilience and service issues and a combination of infrastructure and service issues, rural land use issues and urban interface issues, such that the Council could consider combining the two wards if it resulted in more effective and/or fairer representation. This

thinking informed the Council's initial proposal for a combined Kere Kere-Miranui Ward.

35. The Council received submissions relating to communities of interest, especially from residents of the current Miranui Ward who did not consider that there were sufficient similarities in the communities of interest for the Kere Kere and Miranui Wards to be combined. There was concern that the Miranui townships would become marginalised and underrepresented as a result of the Council's proposal, with a belief that the two ward councillors would likely be elected from the Kere Kere area.
36. The Council has undertaken sufficient analysis of the communities of interest, and has clearly responded to submissions on this point in confirming four general wards in its final proposal.
37. Given that the Council's final proposal includes five members for the Levin General Ward and five between the Kere Kere, Miranui and Waiopēhu General Wards, it can be argued that the urban and rural parts of the district already have sufficient levels of representation through the Council's final proposal, such that an urban/rural ward model would not achieve more effective representation at this point.

Fair representation for electors

38. For the purpose of achieving fair representation for the electors of a district, section 19V(1) 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').
39. However, section 19V(3)(a) permits non-compliance with the '+/-10% rule' for territorial authorities in some circumstances. Those circumstances are where:
 - a. non-compliance is required for effective representation of communities of interest within island communities or isolated communities
 - b. compliance would limit effective representation of communities of interest by dividing a community of interest
 - c. compliance would limit effective representation of communities of interest by uniting two or more communities of interest with few commonalities.
40. In the Council's initial proposal all wards complied with the +/-10% rule. The changes made to the final proposal resulted in the Kere Kere and Waiopēhu General Wards falling outside the '+/-10% rule', at -11.61% and +10.81% respectively. The Council has relied on submissions relating to communities of interest in coming to its final proposal.
41. In notifying its final proposal the Council stated that the general ward arrangements proposed are the most appropriate to ensure the communities of interest of Miranui and Waiopēhu are effectively represented and the arrangements do not create barriers to participation.

42. We consider the Council's proposal for the Kere Kere and Waiopēhu General Wards not complying with the '+/-10% rule' should be upheld. The reasons being that compliance with the '+/- 10% rule' in this case would limit the effective representation of communities of interest by either splitting communities of interest or uniting communities of interest with few commonalities.

Communities and community boards

43. 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.
44. 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?
45. The appeals requested that Te Awahou Foxton Community Board be disestablished and replaced with three community boards, covering the urban, rural and Māori wards that the appellants suggested. We have already established that the urban/rural split is not viable. For this reason, discussion relating to the establishment of community boards on that basis is not necessary. Furthermore, the community board outcomes sought by the appellants are not possible under the Act as it requires communities to be geographically identified meaning that there is not provision for a community board based on electoral population.

Commission's determination¹

46. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of Horowhenua District Council to be held on 8 October 2022, the following representation arrangements will apply:
1. Horowhenua District, as delineated on Plan LG-042-2022-W-1, will be divided into five wards.
 2. Those five wards will be:
 - i. Horowhenua Māori Ward, comprising the area delineated on Plan LG-042-2022-W-2
 - ii. Kere Kere General Ward, comprising the area delineated on Plan LG-042-2022-W-3
 - iii. Miranui General Ward, comprising the area delineated on SO 37403
 - iv. Levin General Ward, comprising the area delineated on Plan LG-042-2022-W-4
 - v. Waiopēhu General Ward comprising the area delineated on Plan LG-042-2022-W-5
 3. The Council will comprise the mayor and 12 councillors elected as follows:
 - i. 2 councillors elected by the electors of Horowhenua Māori Ward
 - ii. 2 councillors elected by the electors of Kere Kere General Ward
 - iii. 1 councillor elected by the electors of Miranui General Ward
 - iv. 5 councillors elected by the electors of Levin General Ward
 - v. 2 councillors elected by the electors of Waiopēhu General Ward.
 4. There will be a Te Awahou Foxton Community comprising the area delineated on LG-042-2022-Com-1
 5. Te Awahou Foxton Community Board will comprise five elected members and one member representing Kere Kere General Ward appointed to the community board by the council.
47. As required by sections 19T(b) and 19W(c) of the Local Electoral Act 2001, the boundaries of the above wards and communities coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes.

Local Government Commission

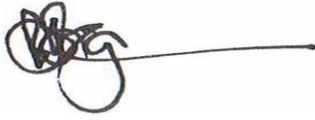


Commissioner Brendan Duffy (Chair)

¹ 1 Plan references preceded by SO are deposited with Land Information New Zealand, and plan references preceded by LG are deposited with the Local Government Commission.

Janie Annear

Commissioner Janie Annear

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Commissioner Bonita Bigham

A handwritten signature in blue ink, appearing to be 'Sue Piper', written in a cursive style.

Commissioner Sue Piper

6 April 2022