



**LOCAL GOVERNMENT COMMISSION  
MANA KĀWANATANGA Ā ROHE**

**Determination**  
of representation arrangements to apply for  
the election of the Marlborough District Council  
to be held on 9 October 2010

**Background**

1. The Marlborough District Council (the Council) elected at the 2007 local elections comprises the mayor and 9 councillors elected as follows:

Ward	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Pelorus-Northern Marlborough Sounds	2,661	1	2,661	-382	-12.5
Picton	5,067	2	2,534	-509	-16.7
Wairau-Awatere	9,630	3	3,210	+167	+5.5
Blenheim	22,197	7	3,171	-128	+4.2
<b>Total</b>	<b>39,555</b>	<b>13</b>	<b>3,043</b>		

\*2001 Census figures provided by Statistics New Zealand

2. Currently there are no community boards in Marlborough District.
3. The Marlborough District Council has used the STV electoral system since the 2004 elections.
4. On 6 August 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 elections. These were publicly notified on 13 August with submissions called by 25 September 2009.

5. The Council's initial proposal was as follows:
- (a) the Council comprise 13 councillors (and the mayor) elected from four wards as follows:

Ward	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district population per councillor
Pelorus-Northern Marlborough Sounds	2,751	1	2,751	-522	-15.9
Picton	5,277	2	2,639	-634	-19.4
Wairau-Awatere	10,770	3	3,590	+317	+9.7
Blenheim	23,748	7	3,393	+120	+3.7
<b>Total</b>	<b>42,546</b>	<b>13</b>	<b>3,273</b>		

\*2006 Census figures

- (b) there be no community boards in the district.
6. In notifying its proposals, the Council provided the following explanations for its proposals:
- it considered that the ward system provided fair representation of communities of interest in the district
  - it had resolved that both the Pelorus-Northern Marlborough Sounds and Picton Wards had significant communities of interest that could be classified as isolated communities under section 19V of the Local Electoral Act and as such each ward required the level of representation that they currently had
  - meshblock 2292211 (containing the residences at the south end of Redwood Street) be transferred from the Wairau-Awatere Ward to the Blenheim Ward.
7. The Council received 2 submissions on its initial proposal.
8. One submitter considered that the proposal did not comply with the provisions of section 19V(3)(a) of the Act (relating to isolation) and that the only scenario identified in the Council report that complied was a total of 15 councillors.
9. The other submitter considered that the proposal for three members to represent the Wairau-Awatere Ward did not represent 'fair and effective representation' for the Wairau Valley, Wairau Valley township and Renwick and did not represent the diversity of the Wairau Valley community.
10. At a meeting on 29 October 2009 the Council, after consideration of submissions, resolved to confirm its initial proposal for representation arrangements for the 2010 elections as its final proposal.

11. The Council notified its final proposal in the *Marlborough Express* on 5 November 2009.
12. In notifying its final proposal, the Council stated it had rejected the matters raised in submissions for the following reasons:
  - after reconsideration of the argument for isolated communities within the Pelorus-Northern Marlborough Sounds and Picton Wards, it confirmed that its interpretation of section 19V(3)(a) complied and therefore for the effective representation of communities within those wards, membership may be distributed in a way that did not comply with section 19V(2)
  - after reconsideration of the representation of the Wairau-Awatere Ward, it agreed that the present three members more than adequately provided representation for all communities within the ward.
13. One appeal was received against the Council's final proposal. This appeal was on the same grounds as the submission on the Council's initial proposal relating to isolated communities within the Pelorus-Northern Marlborough Sounds and Picton Wards.

### **Hearing**

14. The Commission met with the Council and the appellant at a hearing held at the Marlborough District Council on 31 March 2010. The Council was represented by Richard Fowler, lawyer, and Mike Porter the Council's Democratic Services Co-ordinator. The appellant David Dew also appeared before the Commission.

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

15. Mr Fowler tabled a submission outlining the background and reasons for the Council's proposal and in particular the arguments in favour of isolated community status for the Pelorus-Northern Marlborough Sounds and Picton Wards. The background and reasons for the proposal included:
  - the makeup of the wards and the communities of interest those ward represented were identified in the Local Government Commission's decision of 1989 to amalgamate the Picton Borough, Blenheim Borough and Marlborough County and the various factors identified in that decision remained the same today
  - the Council considered both the Pelorus-Northern Marlborough Sounds and Picton Wards contained isolated communities for the purposes of subsection 19V(3)(a) of the Act and were therefore entitled to membership that did not comply with section 19V(2)

- amalgamation of these two wards was considered but this would still not comply with the Act
- previous Councils, the Commission and “by default the Remuneration Authority” had looked at 13 councillors being the optimum for the Marlborough Region and therefore the Council considered that two additional councillors (which would make the wards comply with section 19V(2)) were not required to ensure fair and effective representation
- the Council had determined that the application of population alone would not result in fair representation, particularly in the Sounds area due to its remoteness, access difficulties, major development issues, widely scattered rural areas and high absentee populations
- the Council’s proposals had not produced any substantial elector opposition.

16. Arguments in the Council’s submission in favour of isolated community status for the Pelorus-Northern Marlborough Sounds Ward included:

- the ward covered the major land mass north of the Wairau River including Kenepuru and Pelorus Sounds areas encompassing d’Urville Island and much of the outer Marlborough Sounds
- the population was small and was spread over a wide area
- access to much of the area was extremely difficult and could involve large distances on unsealed winding roads or travel by boat
- communities were isolated in that not only were large parts difficult to access but also the parts that were accessible were isolated by the significant distance from the other main centres in the district
- there were approximately 1,000 absentee owners in the ward and of these a significant proportion were located in the Sounds area and were only reachable by boat which could involve significant travel time and distances from the main centres of the ward
- during periods of severe weather large parts of the ward could not be reached by boat and were completely cut off.

17. Arguments in the Council’s submission in favour of isolated community status for the Picton Ward included:

- while Picton urban area could not be argued to be an isolated community, a significant proportion of the population of the ward was spread over a vast area (including Queen Charlotte Sound, Tory Channel, Arapawa Island and Port Underwood) the majority of which could only be reached by boat

- there were approximately 800 absentee home owners in the ward and of these a significant number were located in the Sounds area and were only reachable by boat
  - during periods of severe weather the large parts of this ward accessible by boat were also completely cut off.
18. The appellant, David Dew, made the following points:
- while he had pointed out that only the scenario of 15 councillors complied with the requirements of section 19V(2), he was not advocating this
  - there were layers of communities of interest in a district and the Sounds community of interest also lay with Blenheim such as for business and professional services, there were also linkages between Pelorus and Queen Charlotte Sounds and he did not accept the 'working sounds' and 'playground' distinction between the two wards as promoted by the Council
  - electors tended to approach a range of councillors on particular issues not necessarily their ward councillor
  - the only significant remaining development issue for the two wards was marine farming as the ferry wake issue had been resolved
  - enhanced technology meant local representation was now less important
  - a significant redrawing of ward boundaries was required.

### **Matters for Determination**

19. The statutory provisions in respect of appeals and 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*

20. 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).
21. 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'.
22. 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 district's communities of interest
- (b) determine the best means of providing effective representation of the communities of interest
- (c) determine fair representation of electors for the district.

*Effective representation of communities of interest*

- 23. Marlborough District has been divided into wards since its constitution in 1989. It was divided into five wards for the 1989 to 2001 elections inclusive and then four wards for the 2004 and 2007 elections. These wards originally reflected the areas amalgamated in 1989, i.e. Blenheim Borough, Picton Borough and the Awatere, Wairau and Sounds areas of Marlborough County. The Awatere and Wairau Wards were combined for the 2004 elections in order to comply with the +/- 10% fair representation requirement of section 19V(2).
- 24. For the purposes of this review, the Council appeared to have put considerable weight on the fact the district had been divided into wards since its constitution in 1989 and that this basis of election had been confirmed by subsequent Council and Commission determinations.<sup>1</sup>
- 25. We were particularly concerned at the Council's proposal for a Picton Ward that did not comply with the '+/-10% rule'. The Council claimed a significant proportion of the population of the ward was spread over a vast area and therefore the isolated communities exception provision could be applied to this ward. The Council itself acknowledged that the Picton urban area could not be argued to be isolated. Given the size of the population of the urban area relative to the rest of the ward, we do not accept a significant proportion of the current ward can be described as isolated.
- 26. Given the nature of the district, particularly its geography and growth patterns, and other factors such as the introduction of the STV electoral system, we believe it would now be timely for the Council to engage the community in a debate on the most appropriate basis of election for the district. Such engagement did not appear to have occurred in the current review beyond the minimum statutory requirements.
- 27. Taking into account the geography of the area, there appeared to us to be only two viable options under the current legislative provisions if Picton was not to be constituted as a separate ward. Either some combination of the Picton and Pelorus-Northern Marlborough Sounds

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<sup>1</sup> We note that no elected members were present at the hearing and that it would have been helpful if we had been able to ask questions of the elected members.

Wards should be seriously investigated, or consideration should be given to an at large basis of election.

28. As we set out in our representation review guidelines, a comprehensive review should begin with a study of current communities of interest in the district. For example in Marlborough District, the urban area of Blenheim Ward continues to grow and boundary changes, in addition to the one meshblock identified by the Council, are required to reflect the current community of interest of this ward. The relationship of this area with the surrounding lower Wairau Valley area should also be considered.
29. Following identification of current communities of interest, consideration then needs to be given to the basis of election that will best provide effective representation of those communities of interest.
30. As noted, a factor that has changed since 1989 is the introduction of the STV electoral system in the district. It is well established that to achieve the benefits of proportional representation under this system, multi-member wards are required of at least three members and up to five to seven members.
31. One option to achieve the full benefits of STV would be an at large system of representation for the district. While some might argue that an at large system would jeopardise representation for small areas, it should be noted that with a membership of 13 councillors, as at present, only one fourteenth of the votes are required to be elected in an STV election. Many of the small areas of Marlborough District can be seen by themselves, or combined with other adjacent areas, to comprise areas able to muster this proportion of votes.
32. In 1998 the Commission identified a need to initiate a major redraft of boundaries for the 2001 elections. It considered such a redraft would lead to a radical restructuring of the district and it said this would need to be carefully considered by the public and the Council before decisions were made.
33. While an at large system could be a viable option, we believe the need for public consideration applies equally to the current review as it did in 1998. We have decided, therefore, that it would not be appropriate to make radical changes to the district's basis of election at this stage of the review.
34. We recommend that the Council undertakes a comprehensive review of communities of interest and the best means of providing effective representation of these communities, as part of its next review of representation arrangements. The review should include consideration of the total number, or appropriate range in number, of elected members bearing in mind the Council's unitary authority status.

35. Clearly this review needs to involve early and effective consultation with the community beyond the minimum prescribed requirements of the Act. The Council has the option of undertaking such a review prior to the 2013 elections but must carry it out prior to the 2016 elections.
36. Given the need for effective community consultation before implementing major changes to the basis of election, we have decided to retain a ward system of representation for the district for the 2010 elections.

*Fair representation for electors*

37. The Council's final proposal identified four wards centred on traditional communities of interest of Blenheim, Wairau-Awatere, Picton and Pelorus-Northern Marlborough Sounds. Given our comments above, we have decided to retain the Blenheim and Wairau-Awatere Wards electing 7 and 3 councillors respectively. In addition to the meshblock identified by the Council, we have made further adjustments to the boundary between these two wards reflecting growth in the Blenheim urban area since the last review and access factors, and to comply with section 19V of the Act.<sup>2</sup>
38. As noted above, the other two wards proposed by the Council did not comply with the +/-10% fair representation requirements of section 19V of the Act.
39. We carefully studied the nature of the two wards. We believe there is a commonality in community of interest between the two wards. Clearly both wards contain islands, sounds and other remote areas. As a result the Council's administration rate area, reflecting areas without road links, spans a large area of both wards with a small population.<sup>3</sup> Both wards are popular holiday destinations and, as pointed out by the Council, both wards have a relatively high number of absentee owners.
40. We are not persuaded by the Council's 'working sounds' and 'playground' distinction as the basis for retaining two separate wards. As noted above, Picton township and the immediately surrounding area cannot be considered isolated. We have decided, therefore, that the Picton and Pelorus-Northern Marlborough Sounds Wards should be combined electing a total of three councillors. The ward is to be called Marlborough Sounds Ward.
41. The combined ward still does not comply with the requirements of section 19V(2). We believe this can be justified, under section

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<sup>2</sup> The Council used 2006 Census night population figures as distinct from the ordinarily resident population required by the Act. Given this, and the fact the Council did not use the most up-to-date meshblock pattern, further meshblocks had to be moved into the Blenheim Ward in order to comply with section 19V of the Act.

<sup>3</sup> We were told that there were 252 permanent residents in the Picton Ward in the administration rate area and 132 in the Pelorus-Northern Marlborough Sounds Ward.

19V(3)(a), given the proportion of population in isolated communities in the combined ward.

42. Bearing in mind the factors we identified in our representation review guidelines, we note the combined ward contains physically isolated communities and there is evidence of significant distance and travel times for particular communities. In addition, as already noted, a number of these areas can only be reached by boat and can be completely cut off in severe weather. These characteristics of the ward do impact on the ability of particular communities to receive appropriate representation by elected members.
43. An advantage of combining the two wards into a three-member ward is that it will allow the potential for the STV electoral system to provide proportional representation of voters in this ward.
44. We believe that the above decisions will provide effective representation of the communities of interest of Marlborough District. Two of the wards comply with the section 19V requirement for fair representation for electors and the membership of the third ward is based on the fact this ward contains isolated communities. The relationship between these decisions on ward boundaries, the number of councillors per ward, and the requirements of section 19V(2) is illustrated in the following table.

Ward	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Marlborough Sounds	8,350	3	2,783	-640	-18.7
Wairau-Awatere	11,250	3	3,750	+327	+9.5
Blenheim	24,900	7	3,557	+134	+3.9
<b>Total</b>	<b>44,500</b>	<b>13</b>	<b>3,423</b>		

\*These figures are rounded 2008 population estimates provided by Statistics New Zealand

### *Communities and community boards*

45. 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 for electors.
46. Marlborough District has not had community boards since its constitution in 1989 and the Council was not proposing establishment of any boards. Consideration needs to be given to community boards as part of the recommended comprehensive future review of representation arrangements for the district.

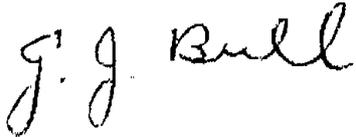
## **Commission's Determination**

47. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Marlborough District Council to be held on 9 October 2010 the following representation arrangements apply –
- (1) Marlborough District as delineated on SO Plan 431033 deposited with Land Information New Zealand, is divided into three wards.
  - (2) The three wards are:
    - (a) the Marlborough Sounds Ward, comprising the area delineated on SO Plan 431037 deposited with Land Information New Zealand
    - (b) the Wairau-Awatere Ward, comprising the area delineated on SO Plan 431034 deposited with Land Information New Zealand
    - (c) the Blenheim Ward, comprising the area delineated on SO Plan 431036 deposited with Land Information New Zealand.
  - (3) The Council comprises the mayor and 13 councillors elected as follows -
    - (a) three councillors elected by the electors of the Marlborough Sounds Ward
    - (b) three councillors elected by the electors of the Wairau-Awatere Ward
    - (c) seven councillors elected by the electors of the Blenheim Ward.
48. 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)



Grant Kirby (Commissioner)

9 April 2010