



## **Determination**

of representation arrangements to apply for  
the election of the Gisborne District Council  
to be held on 12 October 2019

### **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. These 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, membership arrangements for those boards. Representation arrangements are to be determined so as to provide fair and effective representation for individuals and communities.
2. The Gisborne District Council (the council) last reviewed its representation arrangements prior to the 2013 local authority elections. Therefore it was required to undertake a review prior to the next elections in October 2019.
3. At the time of the last review, the Council's initial and final proposals were to retain status quo representation arrangements. Fourteen appeals were received. Appellants were opposed to the retention of the status quo arrangements particularly in relation to the fair representation requirements for wards<sup>1</sup>, and in some cases, the number of councillors. Four appellants also opposed the non-establishment of community boards.
4. Following consideration of the appeals, the Commission determined that:
  - a. the number of wards be reduced from seven to five to better reflect communities of interest
  - b. the Matakaoa-Waiapu and Tawhiti-Uawa wards be exempt from complying with the '+/- 10% fair representation rule' due to significant isolation factors
  - c. the Gisborne Ward elects nine councillors rather than eight (with the remaining four rural wards each electing one councillor)
  - d. no community boards be established.
5. Consequently, for the 2013 and 2016 elections, the council comprised a mayor and 13 councillors elected as follows.

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<sup>1</sup> All of the seven wards were outside the required +/-10% range, with the range being -46.68% to +24.00%.

Wards	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Gisborne	33,000	9	3,667	+85	+2.37
Taruheru-Patutahi	3,800	1	3,800	+218	+6.09
Waipaoa	3,840	1	3,840	+258	+7.20
Tawhiti-Uawa	3,120	1	3,120	-462	-12.90
Matakaoa-Waiapu	2,810	1	2,810	-772	-21.55
<b>Total</b>	<b>46,570</b>	<b>13</b>	<b>3,582</b>		

\* Based on 2011 population estimates

6. Prior to the 2016 elections the Commission agreed to some minor boundary alterations between the Gisborne Ward and the Taruheru-Patutahi and Tawhiti-Uawa wards under section 19JA of the Act. These alterations did not alter the fundamental structure of the wards.

### Preliminary consultation and options for current representation review

7. Before undertaking the formal part of the current representation review process, the council undertook preliminary consultation with the community to gauge public views on representation and to identify communities of interest. A council officer's report<sup>2</sup> summarised the results of the consultation as follows:

“The community has a strong sense of belonging to their home area (or wa kainga) and neighbourhoods. Council services and facilities provide and support key community gathering spaces. The community expect that there is access to elected members and that they can address local issues. There appears from the consultation, little appetite for a reduction in the number of councillors. Key themes include:

- the rural vs urban consideration – there are advocates from either side for greater outcomes for rural or urban, depending on their location
- many people express cultural ways of gathering and as such expect from their representation some form of Maori cultural competence and/or Maori representation
- there is an expectation of face to face (kanohi kitea) representation and acknowledgment of that challenge in increasingly larger electorates
- an expectation that councillors know and have the competence to identify and solve local issues. There was a call for “representation that is local” indicating a preference to locate decision-making closer to local communities”.

<sup>2</sup> Report to a council meeting on 22 February 2018 entitled “Representation Review – Preliminary Consultation”.

8. On 22 February 2018, the council held a workshop on its representation review eventually identifying three options for further consideration. The selected options were:
- **Option 1:** 12 councillors elected from two wards, being an urban ward electing 9 councillors and a rural ward electing 3 councillors, and no community boards
  - **Option 2:** 14 councillors elected from two wards, being an urban ward electing 10 councillors and a rural ward electing 4 councillors, and no community boards
  - **Option 3:** 14 councillors elected from five wards being an urban ward electing 10 councillors and four rural wards electing 1 councillor each, ward boundary changes to meet the ‘+/- 10% rule’, and no community boards. (This option was similar to the status quo other than boundary changes to wards and an additional member for the Gisborne Ward.)
9. Other options of: the status quo, an at large system and a mixed at large/ward system were not pursued. None of the options considered provided for community boards.

### The council’s initial proposal

10. At a meeting on 1 March 2018, the council considered the three options above and resolved that Option 3 be its initial representation proposal. It notified its proposal on 7 March 2018. The proposal provided for the following arrangements for the election of councillors.

Wards	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Gisborne	35,300	10	3,530	+62	+1.9
Matakaoa-Waiapu	3,360	1	3,310	-157	-3.09
Tawhiti-Uawa	3,300	1	3,310	-157	-4.82
Taruheru- Pātūtahi	3,180	1	3,310	-157	-8.28
Waipaoa	3,400	1	3,310	-157	-1.94
<b>Total</b>	<b>48,540</b>	<b>14</b>	<b>3,467</b>		

\* Based on 2017 population estimates

11. By the deadline of 12 April 2018, the council had received 31 submissions.
12. Eighteen submitters supported the council’s initial proposal. Specific reasons given for supporting the proposal included support for rural representation, support for continued representation for the East Coast component of the district and support for there not being community boards.
13. Thirteen submitters opposed the initial proposal (or elements of it) citing the need to reduce the number of councillors, the need to reduce the number of wards, support for community boards, or support for an at large system of elections. Specifically three submitters expressed opposition to boundary changes for wards because of the perceived splitting of communities of interest around the Makauri/Hexton and Wainui/Okitu areas.

## The council's final proposal

14. The council heard submissions on the initial proposal on 10 May 2018. Subsequently at a meeting on 17 May 2018, the council amended its initial proposal to the following final proposal for the 2019 local elections:
  - nine councillors, plus the mayor, elected at large
  - three community boards, being East Coast, Western Rural and Gisborne City community boards
  - each community board having four elected members and two appointed members, with the following two community boards having members elected from subdivisions:
    - East Coast Community Board having two subdivisions: Matakaoa-Waiapu Subdivision and Tawhiti-Uawa Subdivision, each electing two members
    - Western Rural Community Board having two subdivisions: Taruheru-Patutahi Subdivision and Waipaoa Subdivision, each electing two members.
15. The final proposal was publicly notified on 23 May 2018.

## Appeals/objections against the council's final proposal

16. One appeal and 58 objections were lodged against the council's final proposal. One objection was received late and was accepted on the basis that it raised the same concerns as other objections. The appellant and objectors are listed in the Appendix.
17. In summary, the grounds for the appeal and objections were:
  - concern about an at large system for the election of councillors rather than a ward system, with 34 objectors saying the ward system should be retained
  - opposition to the introduction of community boards, with 27 objectors opposing the establishment of community boards and some arguing they would be inadequate substitutes for ward councillors as they do not have the same powers as a council
  - opposition to the reduction in councillors from 13 to nine, with ten objectors opposing the reduction and some arguing that nine councillors would be insufficient to govern a unitary authority given the additional functions that it entails.
18. The primary basis for much of the opposition to the council's final proposal was a concern that rural communities would have inadequate representation. Forty-three objectors cited concerns about a reduction in rural representation and/or potential for a lack of awareness of rural issues on council. Eight objectors suggested other ward configurations (such as having one rural and one urban ward).

## Hearing

19. The Commission met with the council and those objectors who wished to be heard at a hearing held in Gisborne on 8 October 2016. The council was represented at the hearing by the Deputy Mayor Rehette Stoltz.

20. The appellants appearing at the hearing were:

- Kerry Worsnop
- Graeme Thomson
- Hamish Cave
- Pat Seymour
- Nicholas Seymour
- Trevor Brown
- Clive Bibby (represented by Padre William Gray)
- Federated Farmers (Gisborne-Wairoa Province) represented by Sandra Faulkner, Provincial President
- Simon Cave.

21. Tina Ngata (representing Hilton Collier) was also to appear but could not due to unforeseen circumstances. Instead she recorded her presentation and submitted it electronically.

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

22. The following is a summary of the main points made by the Deputy Mayor at the hearing in support of the council's proposal.

- The status quo is non-compliant and boundary changes proposed to achieve compliance had created new problems.
- The new model could be retained for the longer term and would not need boundary adjustments at every review.
- The process had identified three distinct communities of interest and these are reflected in the areas of the proposed community boards.
- Community boards are a component of the local government legislation and work effectively elsewhere.
- The council is looking at effective community boards in other districts as models for what could happen in Gisborne District, e.g. Rotorua District and Thames-Coromandel District.
- Community board responsibilities are still being developed but would include parks and reserves funding and possibly roading funding.
- A benefit of the final proposal is that all voters would be able to take part in the election of all councillors.
- The community has signalled that it is ready for transformation.
- The proposal would result in more community voices and more diverse leadership.
- The council is aware that implementation of the final proposal will require further changes, e.g. to the council's committee structure.

- The council considered that it had carried out a good consultation process including the distribution of a flyer and the review being raised through the long-term plan consultation process.
  - The decision-making process had been robust with the final proposal being arrived at after a four-hour workshop and then a council meeting at which all councillors were present.
23. The following is a summary of the main points made at the hearing in opposition to the council's proposal.
- Concern was expressed that the council had introduced such a significant set of changes at the very end of its process.
  - It was stated that the final proposal was opposed by the mayor and four councillors.
  - The council had tried too hard to achieve compliance with the '+/-10% rule' and in doing so had lost sight of the scope for some wards to be non-compliant.
  - Concern was expressed about the adequacy of the consultation process and the number of submissions received was not considered high enough to warrant such changes.
  - The majority of submissions had supported the existing arrangements.
  - Community boards are not an adequate substitute for direct representation on the council and there is a risk that candidates from rural communities would not be elected to the council under an at large system.
  - There were distinct rural communities of interest in the district and a distinct rural/urban division.
  - Rural communities cover large areas with long driving times required to traverse them, and there are some communities that could be considered to be isolated.
  - It was questioned whether the East Coast area (as defined for one of the proposed community boards) is a single community of interest.
  - Without rural voices on the council an important point of view on distinctly rural issues would be lost.
  - The Local Government Act requires the separation of regulatory and non-regulatory functions and the reduced number of members proposed would make this harder to achieve than currently.
  - Community boards in other districts are not universally successful.
  - Information on the terms of reference for the proposed community boards was lacking.

### **Matters for determination by the Commission**

24. 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.

25. These matters include:
- 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

26. Based on legislative requirements, the Commission's *Guidelines for local authorities undertaking representation reviews* 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

27. 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.
28. 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.
29. In addition to evidence 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.

30. In the case of Gisborne District, quite clearly there are communities of interest based on differences between rural and urban, and on the location and characteristics of individual communities. This was a clear theme of views expressed at the hearing and the distinction is easily discernible from a general knowledge of the district. The council itself recognised this distinction in the three areas identified for its proposed community boards.

### **Effective representation of communities of interest**

31. Section 19T of the Act requires the Commission to ensure that:
- 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
  - ward boundaries coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes
  - so far as is practicable, ward boundaries coincide with community boundaries (where they exist).
32. '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).
33. The Commission's Guidelines note the following factors need to be considered when determining effective representation:
- 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.
34. 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.
35. Section 19A of the Act provides that a territorial authority shall consist of between 5 and 29 elected members (excluding the mayor), i.e. councillors. The Gisborne District Council comprised 16 councillors when it was constituted in 1989, reducing to 15 in 1995, to 14 in 1998, and then to 13 in 2013. Over that time, Gisborne District has been divided into wards (11 wards from 1989 to 1992, reducing to seven wards in 1995 and to the current five wards in 2013).

36. The essential questions for the Commission to consider are firstly the choice between the council's proposal for an at large system or whether a ward system of some form should continue as promoted by the objectors, and secondly how many councillors there should be.
37. The primary concern expressed by objectors was that the election of the council through an at large system risked rural areas having no representation on the council and that, as a result, a rural perspective would be lost. It is speculative to predict where councillors might be elected from under at large elections. However, we agree with objectors that from a statistical point of view this must be a possibility.
38. Enrolment statistics show that currently 74 percent of electors in Gisborne District reside in the Gisborne Ward and 26 percent reside in the other wards.<sup>3</sup> The preponderance of urban electors must at least create a risk of urban voters and candidates dominating elections.
39. Community boards as proposed by the council enable decisions about local services to be made at a community level, and for advocacy on broader issues on behalf of communities. However this, by itself, would not ensure that a rurally based perspective is present when decisions are made by the council on strategic or district-wide issues. The relevance of this is heightened by the fact that the Gisborne District Council is a unitary authority with responsibility for significant matters affecting the rural community, e.g. catchment management and biosecurity.
40. Members of local authorities are required when making their declaration under Schedule 7 of the Local Government Act, to act in the best interests of the district and as a result they must take a district-wide perspective in their decision-making. However that is not the same as ensuring effective representation of communities of interest. To our mind that requires bringing the perspectives of different communities to council decision-making and, both at election time and on an ongoing basis, effective engagement between councillors and the community. In our view, at the current time, this is best achieved in Gisborne District through a ward system.
41. There are a number of possible wards systems. Some objectors raised the possibility of having one urban ward and one rural ward. The community board areas proposed by the council form another possible set of wards. Lastly the existing ward system with an urban ward and four largely rural wards provide another possibility.
42. Gisborne District covers a large area and a single rural ward covering almost the entire land area of the district, as would occur under the two-ward option, does not seem to be one that would be easy for councillors to represent or engage with. We think that a finer geographic split is therefore required.
43. The current four rural wards were determined by the then Commission in 2012 for the 2013 local elections. We understand, however, that the basis for them was work undertaken by council officers for the council's 2012 representation review (although not ultimately adopted by the council). That work took into account a number of geographic and functional characteristics.

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<sup>3</sup> Sourced from enrolment statistics as at 30 November 2018 on the Electoral Commission's website [www.elections.govt.nz](http://www.elections.govt.nz)

44. The Commission's 2012 determination described these characteristics in relation to each ward and we quote the commentary here:

"The current wards in the rural area of the district (Matakaoa, Waiapu, Uawa, Waikohu, Cook and Taruheru-Patutahi Wards) still largely reflect historic divisions that existed prior to 1989 under the former Waiapu, Waikohu and Cook Counties. In identifying the 'near compliant' ward structure as a possible alternative option, Council officers did address the question of whether existing wards still reflected current communities of interest in the district. They concluded that the alternative structure (involving the splitting of Waiapu Ward between the Matakaoa and Uawa Wards, and the amalgamation of the Waikohu and Cook Wards) better represented communities of interest in and around Ruatoria and the Waiapu River catchment, and in the western rural area.

"As a unitary authority, we think it is important in Gisborne that both governance and management arrangements facilitate catchment management including, for example, relevant flood zones. We were attracted, as a result, by the option to combine the northern part of the Waiapu Ward with the Matakaoa Ward so that the Waiapu River catchment was totally within one ward rather than the river being a boundary between two wards as at present. This would provide more effective representation for communities of interest associated with the catchment.

"The northern tip of Waiapu Ward and Matakaoa Ward share similar characteristics in terms of demographics and transport issues. All of the combined area is a 10<sup>th</sup> decile deprivation area and is within an area identified by the Tairāwhiti DHB in which general practitioner visits are funded in recognition of the level of deprivation. Council officers noted a Te Rūnanga o Ngāti Porou office is based in Ruatoria which services communities in the combined area, and that there are secondary schools in Ruatoria and Te Araroa with students often travelling between both areas to attend these schools.

"The remainder of Waiapu Ward and the Uawa Ward also have similar community characteristics in relation to demographics and transport issues. This area has a high proportion of 8<sup>th</sup> and 9<sup>th</sup> decile deprivation areas and the northern portion of the combined area is within the Tairāwhiti DHB designated special funding area. Students from this area attend Tologa Bay Area School and the school is described as acting as a focal point for sporting and cultural events for communities in the area.

"According to the officers' report, the two proposed new wards could be defined by meshblocks that coincide with physical and topographical features (ridgelines and rivers) that are well known to local communities. They described the extended Matakaoa Ward geographically as a form of basin bounded by the Raukumara Ranges to the west and the coastline to the north-east while the extended Uawa Ward represents a form of corridor bounded by the Ruakumara Ranges to the west and the coastline to the east. The proposed boundary line generally aligns with marae clusters.

"Accordingly we have determined that the current three wards in this part of the district will be reformed into two new wards called Matakaoa-Waiapu and

Tawhiti-Uawa to reflect the dimensions of communities of interest in the area and to provide effective representation for these communities.

“In respect of two other rural wards, the Waikohu and Cook Wards, the officers’ report noted that there were no high schools, medical facilities or shared facilities that now support the notion of Cook Ward as a separate community of interest. This is in contrast to when the former Cook County Council included part of the current Uawa Ward. The report also noted that while there was a hub of infrastructure services (including fire, refuse transfer station, and medical clinic) based at Te Karaka in Waikohu Ward, there were no services in the Tiniroto area in Cook Ward. The Cook and Waikohu Wards share similar land use, geography and demographics. Waikohu College, as an area school, acts as a focal point for sporting and cultural events for the communities in the combined area.

“In line with the advice provided in the Commission’s Guidelines that wards be based on distinct and recognisable communities of interest reflecting the perceptual, functional and political dimensions of communities of interest, we believe there should be one ward for this area of the district. Accordingly we have determined that the Cook and Waikohu Wards will be combined to form a new ward called Waipaoa Ward. We acknowledge this will be a large ward and we address below possible options to further facilitate achievement of effective representation for the area.

“The final rural ward is Taruheru-Patutahi Ward. This ward is characterised geographically by the Poverty Bay flats and the lower reaches of the Waipaoa River both of which are utilised by the region’s agriculture, horticulture and viticulture industries. The officers’ report identified two iwi, seven hapu and six marae as affiliated to the Taruheru-Patutahi community. On this basis, as a distinct and recognisable community of interest and in the absence of specific challenges to the continuation of this ward, we agreed on the retention of the ward as currently defined.

“One appellant proposed that the Wainui-Okitu area, currently in the Gisborne (urban) ward, be moved to become part of either Uawa Ward or Taruheru-Patutahi Ward given interests in common amongst these communities. We believe such a proposal, along with proposals to re-establish three urban wards in the Gisborne City area, require careful study and consultation with the affected communities. We note that, in respect of the Gisborne urban area, the officers’ report concluded that this area was a single community of interest which was different to the communities of interest that surround it. Accordingly we do not believe it is appropriate for the Commission to make changes to the urban/peri-urban wards at this time.”

45. As noted above, a further option is wards based on the areas identified by the council for the proposed community boards of East Coast, Western Rural and Gisborne City. We note, however, that concern was expressed at the hearing that the East Coast area is not a single community of interest. We think it is likely the East Coast would certainly have a number of commonalities of interest but acknowledge that it is a large area. The driving time from one end of this area to the other is two and a quarter hours without deviating from State Highway 35. We think that an East Coast Ward would be difficult to represent and engage with. The Western Rural area is more compact but still a reasonably large area.
46. On balance we are attracted to the existing ward structure as one that would best provide effective representation of communities of interest. The reasons cited in the Commission's 2012 determination appear to us to remain relevant today.
47. A further concern raised in objections was whether a reduction in the number of councillors would create difficulties for the council in its capacity as a unitary authority given the greater range of responsibilities it has as a result. We have not job-sized the role of a councillor in a unitary authority. We do observe, however, that other unitary authorities of broadly similar population and geographic size (Marlborough District Council and Tasman District Council) both have 13 members.
48. We also note that it is important for a unitary authority to be structured so as to allow separation of decision-making on regulatory and non-regulatory responsibilities, as required by the governance principles set out in section 39 of the Local Government Act 2002. These principles need to be reflected in the council's committee arrangements. We are not confident that a total membership of nine councillors plus the mayor would easily permit this requirement to be met.
49. We have concluded therefore that:
- effective representation in Gisborne District will continue to be best provided by a ward system
  - the existing ward structure enables effective representation by reflecting communities of interest
  - effective representation is provided by the current number of 13 councillors.
50. The resulting representation arrangements will be as follows:

Wards	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Gisborne	35,300	9	3,922	+188	+5.05
Taruheru-Patutahi	3,790	1	3,790	+56	+1.50
Waipaoa	3,640	1	3,640	+94	-2.51
Tawhiti-Uawa	2,870	1	2,870	-864	-23.14
Matakaoa-Waiapu	2,940	1	2,940	-794	-21.62
<b>Total</b>	<b>46,570</b>	<b>13</b>	<b>3,582</b>		

\* Based on 2017 population estimates

## Fair representation for electors

51. 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').
52. However, section 19V(3)(a) permits non-compliance with the '+/-10% rule' for territorial authorities in some circumstances. Those circumstances are where:
  - non-compliance is required for effective representation of communities of interest within island communities or isolated communities
  - compliance would limit effective representation of communities of interest by dividing a community of interest
  - compliance would limit effective representation of communities of interest by uniting two or more communities of interest with few commonalities.
53. Retention of the existing wards would of course result in two wards not complying with the '+/-10% rule'. The Commission's 2013 determination on Gisborne District's representation arrangements explicitly permitted non-compliance for the Matakaoa-Waiapu Ward and, by implication, the Tawhiti-Uawa Ward. The Commission concluded that the Matakaoa-Waiapu Ward comprised a significant number of isolated communities and that this justified an exception to the '+/-10% rule'. We are satisfied that the issues relating to the Matakaoa-Waiapu Ward identified in 2013 continue to apply and that non-compliance continues to be justified.
54. The exceptions to the fair representation requirement permitted to avoid splitting communities of interest or unifying communities of interest lacking commonalities were included in the Act after the council's 2013 representation review was determined. To our mind they increase the importance of communities of interest in the representation review process and are justifiably applied in this case.
55. The council in its review attempted to achieve full compliance with section 19V(1) through altering ward boundaries. The perception by some submitters was that these changes split communities of interest and the council itself acknowledged this as a problem. If it had been desired to retain the wards concerned to ensure effective representation of communities of interest, we consider that use of one or more of the exceptions provided by section 19V(3) would have been justified rather than trying to ensure total compliance.
56. A point raised by council officers at the hearing in support of the Deputy Mayor was that population projections indicated that the degree of non-compliance by some wards would increase in the future. That is of interest but we would point out that it is not a matter included in the criteria for either effective representation in section 19T or fair representation in section 19V. The key requirements are what arrangements will enable effective representation at the time of the current review, whether absolute compliance with the fair representation requirement is required, or whether one of the exceptions permitting non-compliance is warranted.

## Communities and community boards

57. 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.
58. 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 of interest or sufficiently distinct communities of interest?
59. The statutory role of a community board is to:
- a. represent and advocate for the interests of its community
  - b. consider and report on matters referred to it by its parent council
  - c. maintain an overview of council services provided in its community
  - d. prepare an annual submission to the council for expenditure within its community
  - e. communicate with community organisations and special interest groups within its community
  - f. undertake any other responsibilities delegated to it by its parent council.
60. As noted above, the council's final proposal provided for three community boards. As far as the representation review process is concerned this is a separate decision from decisions relating to the number of councillors and the basis of election, i.e. wards, at large or a mixture of the two. We understand, however, that the decision to establish community boards was an integral part of the council's decision for councillors to be elected at large. Indeed we understand the rationale behind that.
61. Having decided that the ward system should be retained it would still be open to us to uphold the council's decision to establish community boards. We certainly appreciate the value that community boards can provide and that some community board structures in other districts are very effective.
62. We agree that the areas of the proposed community boards seem appropriate for the role boards would have. They reflect groupings of similar communities of interest and are of a geographic scale that would enable boards to make effective decisions about any responsibilities they either have as of right or would have delegated to them.

63. We do, however, have some concerns about endorsing the Council's proposal at this time.
64. Firstly, we are unsure that with the retention of wards there would be sufficient commitment by all parties to doing all that is necessary to establish a strong community board system.
65. Secondly, we have concerns about the level of public engagement there has been in the development of the proposal as it relates to community boards. From the evidence we have seen, the notion did not feature in the preliminary consultation carried out by the council. Community boards were not included in any of the initial representation options considered by the council and there was no consultation on the proposition. We acknowledge that five submissions sought the establishment of community boards, however this by itself does not constitute a strong mandate for such a significant change for the district.
66. We have therefore concluded that community boards should not be established in Gisborne District at this time.
67. We recommend that if the council wishes to establish community boards through a future review, it carry out extensive engagement with communities at the beginning of the process, particularly with those identified through the current process as having concerns about what new representation arrangements might mean for them. Any such engagement would benefit from the council having first developed a fully formed view of what community boards within the district would be delegated and be responsible for.

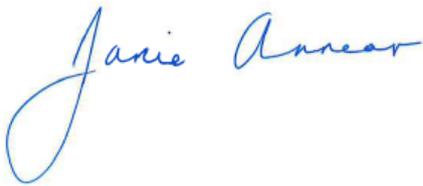
### **Commission's determination**

68. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Gisborne District Council to be held on 12 October 2019, the following representation arrangements will apply:
  - (1) Gisborne District, as delineated on Plan LG-028-2016-W-1 deposited with the Local Government Commission, will be divided into five wards.
  - (2) Those five wards will be:
    - (a) the Gisborne Ward, comprising the area delineated on Plan LG-028-2016-W-3 deposited with the Local Government Commission
    - (b) the Taruheru-Patutahi Ward, comprising the area delineated on Plan LG-028-2016-W-2 deposited with the Local Government Commission
    - (c) the Waipaoa Ward, comprising the area delineated on Plan LG-028-2013-W-4 deposited with the Local Government Commission
    - (d) the Tawhiti-Uawa Ward comprising the area delineated on Plan LG-028-2016-W-4 deposited with the Local Government Commission
    - (e) the Matakaoa-Waiapu Ward comprising the area delineated on Plan LG-028-2013-W-2 deposited with the Local Government Commission.
  - (3) The Council will comprise the mayor and 13 councillors elected as follows:
    - (a) 9 councillors elected by the electors of the Gisborne Ward
    - (b) 1 councillor elected by the electors of the Taruheru-Patutahi Ward

- (c) 1 councillor elected by the electors of the Waipaoa Ward
- (d) 1 councillor elected by the electors of the Tawhiti-Uawa Ward
- (e) 1 councillor elected by the electors of the Matakaoa-Waiapu Ward.

69. As required by section 19T(b) 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.

#### **LOCAL GOVERNMENT COMMISSION**



Commissioner Janie Annear



Commissioner Brendan Duffy

16 January 2019

**Appellant and objectors to the Gisborne District Council's representation review**

Doris Aspinall	Doreen (Dolly) Mitchell
Colin Beaufoy	Ray Newman
Marcus Beaufoy	Ani Pahuru-Huriwai
Clive Bibby	Bridget Parker
Trevor John Brown	Clare Parker
Caroline Dorothy Cave	Mike Parker
Hamish Cave	Diane Playle
Maree Cave	David Quinn
Richard Cave	Taki Rangī
Simon John Cave	Angela Rean
Hadley Charteris	Darryl Rean
Hilton Collier	Anne Roberts
Leonie Collins	Dan Russell
Dawson Dods	N.C. Seymour
Lewis Domb	Patricia Anne Seymour
Leigh Fletcher	Richard Sherrott
Sally Gaddum	Norman Thomas
Derek Goodwin	Graeme Thomson
Dan Griffin	Brian Charles Tietjen
Lois Hauti	John Tietjen
Leigh and Meyric Hindmarsh	William Roger Wanklyn
Bruce Jefferd	A.C. Williams
Nicki Jefferd	Adrian Williams
Chris Jex-Blake	Roger White
Marama Karetai	Toby Williams
Paul and Barbara Larsen	Kerry Worsnop
Gavin Loudon	Te Kura o Hiruharama
Thomas McCullough	Te Runanganui o Ngati Porou
Leonie Newman	Trustee Ltd
Bump Mitchell	Gisborne Wairoa Province, Federated Farmers