



Determination

of representation arrangements to apply for
the election of Whangarei 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. Whangarei 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, no appeals/objections were received against the council's final proposal. As a result, the proposal determined by the council set the representation arrangements that applied for the 2013 and subsequent 2016 local authority elections. Those arrangements were for a council comprising the mayor and 13 councillors elected from six wards as set out 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
Hikurangi Coastal	13,250	2	6,625	-276	-4.00
Whangarei Heads	6,930	1	6,930	+29	+0.42
Denby	21,400	3	7,133	+232	+3.36
Okara	28,300	4	7,075	+174	+2.52
Mangakahia-Maungatapere	6,330	1	6,330	-571	-8.27
Bream Bay	13,500	2	6,750	-151	-2.19
Total	89,710	13	6,901		

*These are updated figures based on Statistics NZ 2017 population estimates

4. The proposal was also for no community boards to be established in Whangarei District.

5. For its current review, the council undertook some informal consultation with the community, by way of visits to advisory, residents and ratepayer groups and an online survey.
6. A total of 71 responses to the survey were received. In summary these showed:
 - 32% wanted no change to the ward system and 28% wanted no wards i.e. at large
 - 39% thought 13 councillors was the right number and 33% wanted fewer councillors
 - 56% did not want community boards and 34% did
 - 64% thought the current wards do not reflect Whangarei’s communities of interest and 30% thought they do
 - 48% were happy with ward names and 45% were not.
7. At a series of briefings, the council considered a number of representation options. These included the status quo; an altered boundary between two wards; three or four wards; nine councillors elected from three wards; councillors elected at large and a mixed system of representation. Following this consideration, the council concluded that the current ward system still largely reflected communities of interest in the district but agreed to investigate some possible ward boundary alterations.
8. At a meeting on 26 July 2018, the council adopted its initial representation proposal. This proposal was for the council to continue to comprise the mayor and 13 councillors elected from six wards subject to two minor ward boundary alterations. These alterations were between Okara and Bream Bay wards and between Hikurangi-Coastal and Denby wards. The proposal was also for no community boards to be established in the district.
9. The proposed ward arrangements are set out 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
Hikurangi Coastal	12,510	2	6,255	-646	-9.36
Whangarei Heads	6,930	1	6,930	+29	+0.42
Denby	22,140	3	7,380	+479	+6.94
Okara	29,210	4	7,303	+402	+5.83
Mangakahia-Maungatapere	6,330	1	6,330	-571	-8.27
Bream Bay	12,590	2	6,295	-606	-8.78
Total	89,710	13	6,901		

*Based on Statistics NZ 2017 population estimate

10. The council notified its initial proposal on 1 August 2018 and invited submissions by 31 August 2018. The council received 6 submissions.

11. The council analysed the submissions as four against the initial proposal, one in favour and one focused purely on Māori representation. Particular suggestions made were:
 - rename Bream Bay Ward
 - keep the current boundary for Bream Bay Ward
 - increase the number of councillors for Bream Bay Ward from two to four
 - recognise the Whangarei central business district as a separate community of interest
 - no community boards
 - one councillor per 15,000 people
 - reduce the number of councillors from 13 to 9, with six at large
 - adopt an at large system
 - other issues (introduce Māori wards, adopt STV, lift campaign spending limits).
12. At a meeting on 27 September 2018, the council, after considering the submissions, resolved to adopt its initial proposal as its final representation proposal.
13. In notifying its final proposal, the council set out the reasoning for its decision as follows:
 - having considered the size, nature and diversity of the district, the total number of councillors remains at 13
 - the ward system best reflects the district's communities of interest and provides for better representation and councillor workload
 - the Bream Bay Ward name, boundaries and number of councillors remain as this provides fair and effective representation to this particular community of interest
 - the issues of the electoral system and Māori wards have been previously considered and are outside of this review
 - the issues of candidate expenditure limits and the rating system in regard to the central business district are outside of this review.
14. The final proposal was publicly notified on 12 October 2018.
15. One appeal against the council's final proposal was received from Matt Keene. This seeks the removal of the ward system of representation which "opens the possibility of a reduction in councillor numbers (and) this will result in more efficient decision-making".

Matters for determination by the Commission

16. 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.

17. Given this requirement, any concerns expressed by appellants/objectors relating to the council's review process are not matters that the Commission needs to address.
18. The matters in scope of the review are:
 - whether the council is to be elected from wards, the district as a whole, or a mix of the two
 - the number of councillors
 - if there are to be wards, the area, boundaries and names of wards and the number of councillors to be elected from each ward
 - whether there are to be community boards
 - if there are to be community boards, the area, boundaries and names of their communities, and the membership arrangements for each board.
19. 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 decision on whether to hold a hearing is based on the information provided by the parties and as a result of any further enquiries the Commission may make.
20. In the case of Whangarei District Council's proposal, we considered there was sufficient information in the documentation provided by the council on the process it had followed in making its decision and also in the appeal for us to proceed to a determination. Accordingly, we decided no hearing was required.

Key considerations

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

Communities of interest

22. The Guidelines identify three dimensions for recognising communities of interest:
 - *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
 - *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
 - *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.
23. 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.

24. 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.
25. In the case of Whangarei, the district is the largest of the three districts in Northland Region and is the major commercial and industrial centre. It includes a major port as well as the industrial area of Marsden Point. The district also has a significant rural base and extensive coastal areas and activities. As a result, communities of interest in the district reflect a balance between urban (residential, commercial, industrial), agriculture and coastal interests.

Effective representation of communities of interest

26. 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 mix of both) will provide effective representation of communities of interest within the city
 - 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).
27. 'Effective representation' is not defined in the Act, but the Commission sees this as requiring consideration of factors including the appropriate total number of elected members and the appropriate basis of election of members for the district concerned (at large, wards, or a mix of both).
28. Section 19A of the Act provides that a territorial authority shall consist of between 5 and 29 members, excluding the mayor. Whangarei District Council comprised a mayor and 13 councillors on its constitution in 1989 and this number of councillors remains today.
29. We note the appellant is seeking an at large system of representation which then "opens the possibility for a reduction in councillor numbers". He believes this in turn will result in more efficient decision-making and allow for an increase in councillor remuneration and for the role to become full-time, and as a result attract a more diverse range of candidates.
30. We address the matter of an at large system of representation next but note that the stated outcomes from a reduced number of councillors are not statutory criteria for determining fair and effective representation arrangements. We would require evidence of community support for a reduction in councillor numbers before considering such a change.
31. In this regard, we note that slightly more respondents in the preliminary consultation survey thought the present number of councillors was the right number compared to

those who thought there should be fewer councillors. In the submissions on the council's initial proposal, there were mixed views on the total number of councillors.

32. 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.
33. We believe the option of an at large system and whether it would enable effective representation, can be best considered based on a good understanding of the communities of interest that make up the district. In particular, to what extent do local communities of interest have sufficient commonalities that enable them to be grouped as one at the district level?
34. Six wards were established when Whangarei District was constituted in 1989 and there remain six wards today. We note the council did initially propose a reduction to five wards in 2007 but, following receipt of submissions, remained with six wards. The finally proposed six wards included a new Whangarei Heads Ward and a regrouping of the coastal and Hikurangi communities. The appeals received in 2007 related to ward arrangements generally including both the restructured coastal wards and the proposed continuation of the two urban wards (Okara and Denby). After careful consideration of all the matters raised, the Commission determined to endorse the council's proposal.
35. In endorsing the council's proposal in 2007, the Commission noted "the process was not without difficulty in relation to some ward boundaries". In 2013, as noted, there were no appeals/objections against the council's final proposal and accordingly the Commission was not involved in that review.
36. It appears from council officer reports in the current review there was a reasonable amount of discussion of communities of interest in Whangarei District, how these may have changed and how these should be grouped to achieve both fair and effective representation.
37. In resolving its initial proposal, the council agreed to two small boundary alterations to better reflect communities of interest, but rejected further changes largely as they did not comply with the '+/-10% rule'.
38. We note that amendments to the fair representation requirements in the Local Electoral Act were enacted following the council's last representation review. In light of the resulting increased flexibility and new balance between fair and effective representation, we believe there was scope for the council to consider more ward changes thought necessary for providing effective representation for particular communities of interest.

39. The possible need for more changes is supported by responses in the council's informal survey, particularly that "64% thought the current wards do not reflect Whangarei's communities of interest". In addition, only "32% wanted no change to the ward system".
40. While no appeals have been received on the detailed ward arrangements, as distinct from removing wards altogether, we take the opportunity to highlight the changes in the legislation and the increased flexibility now available to councils. Specifically, councils are now able to achieve a better balance between fair representation for electors and effective representation for communities of interest. We recommend the council gives particular consideration to this in its next review.
41. In relation to the appeal specifically, we note firstly, there are pros and cons to each of the options for the basis of election. Secondly, a council is generally in the best position to assess these pros and cons in relation to its own district, as it will know the area better than the Commission. This view, however, is subject to the council going through a good process in assessing the pros and cons, and carefully considering community views throughout the process. In such a case, we see it as appropriate for the Commission to endorse a council's decision on options such as the basis of election.
42. In this case, we note the council did give consideration to a range of possible options in briefings prior to resolving its initial proposal including an at large system. The council further considered options as a result of submissions received on its initial proposal. In light of this consideration and input received, we do not consider it would be appropriate for us to change the basis of election for the council at this stage in the review process in response to the single appeal received.
43. Accordingly, we have determined to endorse the council's decision to retain the ward system of representation for the district and specifically the six proposed wards subject to the two identified minor boundary alterations.
44. As commented above, however, we recommend the council, as part of its next representation review, undertakes further work to identify the current communities of interest making up the district including commonalities between them. This work will facilitate future consideration of the basis of election (wards, at large or a mix of both) that will best achieve effective representation for the identified community or communities of interest of the district.

Fair representation for electors

45. For the purposes of fair representation for the electors of a district, section 19V(2) 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').
46. The council's proposal for a council comprising the mayor and 13 councillors elected from six wards, complies with the rule.

Communities and community boards

47. 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.

48. 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?
49. There have been no community boards in Whangarei District since its constitution in 1989. The council is not proposing the establishment of any community boards and the appeal does not raise this issue. Accordingly, we endorse the council's proposal in relation to this matter.

Commission's determination

50. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of Whangarei District Council to be held on 12 October 2019, the following representation arrangements will apply:
1. Whangarei District, as delineated on Plan LG-002-2012-W-1 deposited with the Local Government Commission, will be divided into six wards.
 2. Those six wards will be:
 - a) Hikurangi Coastal Ward, comprising the area delineated on Plan LG-002-2012-W-3 deposited with the Local Government Commission
 - b) Whangarei Heads, comprising the area delineated on Plan LG-002-2012-W-7 deposited with the Local Government Commission
 - c) Denby Ward, comprising the area delineated on Plan LG-002-2012-W-5 deposited with the Local Government Commission
 - d) Okara Ward, comprising the area delineated on Plan LG-002-2012-W-6 deposited with the Local Government Commission
 - e) Mangakahia-Maungatapere Ward, comprising the area delineated on Plan LG-002-2012-W-2 deposited with the Local Government Commission
 - f) Bream Bay Ward, comprising the area delineated on Plan LG-002-2012-W-4 deposited with the Local Government Commission.
 3. The Council will comprise the mayor and 13 councillors elected as follows:
 - a) two councillors elected by the electors of Hikurangi Coastal Ward
 - b) one councillor elected by the electors of Whangarei Heads Ward

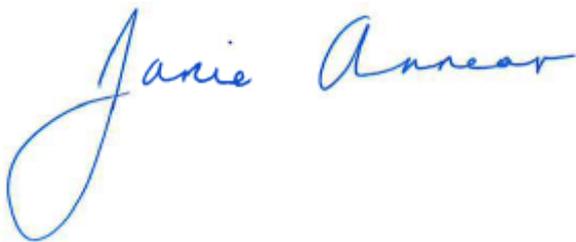
- c) three councillors elected by the electors of Denby Ward
- d) four councillors elected by the electors of Okara Ward
- e) one councillor elected by the electors of Mangakahia-Maungatapere Ward
- f) two councillors elected by the electors of Bream Bay Ward.

51. 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 purposes.

LOCAL GOVERNMENT COMMISSION

A handwritten signature in black ink, appearing to read 'Pita Paraone', with a large, stylized initial 'P'.

Commissioner Pita Paraone (Chairperson)

A handwritten signature in blue ink, appearing to read 'Janie Annear', with a large, stylized initial 'J'.

Commissioner Janie Annear

8 April 2019