



Determination

of representation arrangements to apply for the elections of
the Nelson City Council to be held on 8 October 2022

Background

1. All territorial authorities are required under sections 19H and 19J of the Local Electoral Act 2001 (the Act) to review their representation arrangements at least every six years. Representation reviews are to determine the number of councillors to be elected, the basis of election for councillors and, if this includes wards, the boundaries and names of those wards. Reviews also include whether there are to be community boards and, if so, arrangements for those boards. Representation arrangements are to be determined so as to provide fair and effective representation for individuals and communities.
2. The Nelson City Council (the council) last reviewed its representation arrangements prior to the 2016 local authority elections. Accordingly, it was required to undertake a review prior to the next elections in October 2022. In addition in May 2021 it resolved to establish a Māori ward. Separately in August 2020 the Council had resolved to adopt the STV electoral system,
3. Nelson City Council currently has a mayor and 12 councillors elected at large. This has been the case since 1992. When Nelson City was re-constituted in 1989 as part of the local government reorganisation of that year the council had 14 councillors elected from four wards but those arrangements were done away with through the representation review held prior to the 1992 local elections. The Local Government Commission has not previously been required to make a representation review determination for Nelson City.

Current review: Council process and proposal

Preliminary consultation

4. Prior to developing a formal proposal, the council commissioned a survey before working through a number of representation options. The key findings of the survey were:
 - 67.47% of those surveyed felt connected to Nelson as a whole compared to 26.10% who felt connected to a particular area or areas within Nelson
 - 52.82% would prefer to vote for councillors in their ward and some councillors elected “at large” compared to 27.02% who would prefer to only vote for councillors in their ward.

5. Although there was a strong connection to Nelson City as a whole, attachment to some specific areas was identified, in particular Stoke, Tāhunanui and Atawahi.

The Council's initial proposal

6. On 12 August 2021 the council resolved as its initial representation proposal a council comprising 12 members elected from a mixed ward/at-large system, plus the Mayor. The Council also resolved not to establish community boards.
7. The initial proposed ward and membership arrangements were as follows:

Wards	Population*	Number of councillors	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Central General	25,830	4	6,458	44	0.68
Stoke-Tahuna General	25,480	4	6,370	-44	-0.68
Total General wards	51,310	8	4,275		
Wkakatū Māori	3,280	1	3,280		
At large members		3			
Total	54,590	12			

*Based on Tauranga Aotearoa Stats NZ 2020 electoral population estimates

8. The Council notified its proposal on 14 August 2021 and received 21 submissions by the deadline of 17 September 2021.
9. The submissions could be categorised as follows:
 - 7 made no specific recommendations in relation to the initial proposal
 - 6 supported the initial proposal as is
 - 8 made objections as follows, with 5 preferring a single general ward and 3 preferring a four-ward model
 - No submitters wished to see community boards established

The Council's final proposal

10. On 19 October 2021 the Council met to deliberate on submissions and confirmed its initial proposal as its final proposal. The only change was a change in the name of the Stoke-Tahuna Ward to Stoke-Tāhunanui.
11. The Council publicly notified its final proposal on 21 October 2021.

Appeals against the council's final proposal

12. Two appeals were received by the Council. The Council referred the appeals and objections to the Commission, in accordance with section 19Q of the Act.
13. One of the appeals was considered valid. It was from the Nelson Citizens Alliance and sought:
 - A council of 13 councillors (rather than 12 as proposed by the Council)

- 4 general wards each electing 3 councillors
- 1 Māori ward councillor
- No councillors elected at large.

14. This is identical to one of the eight options considered by the Council prior to resolving its initial proposal. It results in the following arrangements:

Ward name	Population*	Number of councillors	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
North East General	12,240	3	4,080	-188	-4.41
Central General	13,500	3	4,500	232	5.43
Southern Coastal Gen.	12,970	3	4,323	55	1.29
Southern Hills General	12,510	3	4,170	-98	-2.30
Total general wards	51,220	12	4,268		
Whakatū Māori	3,280	1	3,280		
Total	54,500	13			

*Based on Tauranga Aotearoa Stats NZ 2020 electoral population estimates

15. The appellant's supporting arguments were:

- Greater exposure and accountability for all possible candidates up for election*
- Far greater opportunities for the public to view and scrutinise candidates pre-election*
- Greater possibilities for local connection and access for the people of the councillor's ward*
- Greater opportunities for councillors to become involved in their own community activities*
- This will provide greater diversity and representation of a range of socio-economic groups*
- This will provide a lesser likelihood that block votes can be engineered by groups with national political affiliations/parties. Ultimately this will pave the way for openness and greater independence for decision-making at meetings. This will ensure councillors focus on what is best for Nelson.*

16. The appeal also criticised the survey undertaken by the council prior to formal part of the representation review process.

Hearing

17. The Commission met with the Council and the appellant at a hearing held online on 23 February 2022.

18. The Council was represented at the hearing by Mayor Rachel Reese, assisted by Deputy Mayor, Judene Edgar, Chief Executive, Pat Dougherty, Kaumatua to the Council Melanie McGregor and Luke Katu, Group Manager, Strategy and Communications, Nicky McDonald, Manager Governance, and Support Services, Devorah Nicuarta-Smith.

19. The appellant, Nelson Citizens Alliance, was represented by Murray Cameron and Neville Male.

Matters raised at the hearing

20. Mayor Rachel Reese, explained the process the Council had followed in carrying out its representation review and reaching its final proposal. She emphasised the following points:
 - a. The decision to establish a Māori ward had created a need for significant changes to Nelson’s representation arrangements, in particular the creation of general wards in addition to the Māori ward
 - b. The Council was also introducing the STV electoral system which is also a big change
 - c. The Council had tested a number of options including the option preferred by the appellants
 - d. The option chosen by the council achieved a balance of a desire by some for a ward system, and a desire by some for some councillors to be elected at large
 - e. In deciding on an option for representation arrangements the Council had attempted to balance minimising complexity, and maximising continuity
 - f. The desire for continuity had led to the inclusion of some councillors elected at large
 - g. The option chosen by the council had the advantage of maximising the number councillors that voters on the Māori electoral roll could vote for (four compared to one under the option the appellant preferred)
 - h. The 4-ward proposal promoted by the appellant would split the community of interest of Stoke
 - i. The appellant’s argument about the involvement of political parties in local elections was not a relevant consideration as such involvement was permitted by legislation
 - j. In rebuttal to points raised the appellants, an outline of the engagement with the community carried out by the Council during the review.
21. The appellant emphasised the following points in opposition to the Council’s proposal:
 - a. The Nelson Citizens Alliance was concerned about what it considered to be a small number of people who participated in the Council’s process, in particular the survey, and considered the Council should have done more to engage with the community and provide more information about the review
 - b. It was also concerned that the Council’s preferred option had been chosen entirely by councillors, without independent involvement
 - c. Its key arguments for a 4-general ward model were that it would result in:
 - a. greater visibility of candidates at election time compared with either the status quo or the Council’s proposal

- b. greater diversity among councillors, both from a socio-economic point of view and the range of geographic communities represented
 - c. greater interaction of councillors with the community once elected
 - d. better accountability of councillors to the community
 - e. less likelihood of block voting on council by councillors with national political affiliations
- d. the appellant considered there are four strong communities of interest in the four proposed wards.

Matters for determination by the Commission

22. 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.
23. The matters in the scope of the review are:
- whether the council is to be elected from wards, the district as a whole, or a mixture of the two
 - the number of councillors
 - if there are to be wards, the area and boundaries of wards and the number of members to be elected from each ward
 - whether there are to be community boards
 - if there are to be community boards, the area and boundaries of their communities, and the membership arrangements for each board.
24. The appeal to the Council's final proposal raises the following overarching issues for the Commission to collectively resolve:
- the total number of councillors – 12 or 13
 - the number of General Wards – 2 or 4
 - connected to the above, whether or not some councillors should be elected at large.

Key considerations

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

Communities of interest

26. 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.
27. 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.
28. In addition to demonstrating existing communities of interest, evidence also needs to be provided of *differences* between neighbouring communities, i.e. that they may have "few commonalities". This could include the demographic characteristics of an area (e.g. age, ethnicity, deprivation profiles) and how these differ between areas, and evidence of how different communities rely on different services and facilities.
29. In this review the Council identified the communities of interest in the City and used them as building blocks to construct the various options it considered, including the option it adopted as its proposal and the option favoured by the appellant.
30. The overall process focused more on different models of representation rather than the most appropriate groupings of communities for representation. There was, however, one clear theme relating to comparatively more distinct natures of Stoke and Tāhunanui as communities of interest and the possibly greater attachment residents have to them compared with residents of other parts of the city.

Effective representation of communities of interest

31. Section 19T of the Act requires the Commission to ensure that:
 - a. the election of members of the council, in one of the ways specified in section 19H (i.e. at large, wards, or a combination of both) will provide effective representation of communities of interest within the district
 - b. ward boundaries coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes
 - c. so far as is practicable, ward boundaries coincide with community boundaries (where they exist).

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 that what constitutes effective representation will be specific to each local authority but that the following factors should be considered:
 - a. avoiding arrangements that may create barriers to participation, such as at elections by not recognising residents' familiarity and identity with an area
 - b. not splitting recognised communities of interest between electoral subdivisions
 - c. not grouping together two or more communities of interest that share few commonalities of interest
 - d. accessibility, size and configuration of an area including access to elected members and vice versa.
34. Within the scope of a representation review, councils can achieve effective representation of communities of interest by having members elected by wards, at large, a mixture of wards and at large. As the Council has resolved to establish Māori wards, it must also establish at least one general ward.
35. 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.
36. Section 19A of the Act provides that a territorial authority shall consist of between 5 and 29 members, excluding the mayor. Nelson City Council has comprised a mayor and 12 councillors since 1992.
37. In terms of the Council's proposal and the appellants preference, the choice is between 12 and 13 councillors. There is little difference between 12 and 13 councillors per se; rather the two choices are both a product of the two different representation models proposed. Accordingly the decision on the number of councillors is best left to the decision on the overall model to be adopted.
38. The key arguments put forward by the council were that:
 - Its model reflects the views received in its community engagement for both wards and at large members, and recognises the strong communities of interest of Stoke and Tāhunanui
 - The retention of some councillors elected at large, maintains some continuity with current arrangements
 - It maximises the number of councillors voters on the Māori electoral roll may vote for
 - The four-ward model splits the Stoke community of interest between wards.

39. The key arguments put forward by the appellant for a 4-general ward model were that it would result in greater visibility of candidates at election time, greater diversity among councillors, greater interaction of councillors with the community, and better accountability of councillors to the community. The appellant's overarching argument was that its proposal better met the objective of fair and democratic elections.
40. Both these sets of argument have some merit, but on balance we are persuaded by the arguments put to us by the Council – the fact that its proposal incorporates a mixture and balance of community preferences, and the fact that it maximises the number of councillors voters on the Māori electoral roll will be able to vote for. We see these as being more attainable benefits than those put forward by the appellants. At the same time it is possible that some of the benefits argued by the appellants could result from the council's proposal, through smaller electoral areas than at present and through the STV electoral system.
41. Although not highlighted in the review process or at the hearing we think that the benefits of STV will have a better opportunity to present themselves in four-member wards than three-member wards. This has the potential to increase diversity on the Council and to provide representation from a greater range of communities within a ward.
42. We have also noted the comment by the Mayor in speaking to the hearing that the four-ward model would result in Stoke being split between wards. This comment is supported by our examination of maps of the area and the ward boundaries proposed in the appellant's preferred option. Given that the process showed that Stoke is one of the more distinct communities of interest the possibility of Stoke being split would be of concern to us.
43. In conclusion we consider that the Council's proposed representation arrangements will provide effective representation of communities of interest and uphold its proposal.

Fair representation for electors

44. 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').
45. The ward and membership arrangements determined by the council comply with the +/-10% rule. Consequently, we are not required to consider this matter further.

Communities and community boards

46. 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.

47. There have been no community boards in Nelson City since legislation first provided for boards in 1989. In the current review, 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 determination¹

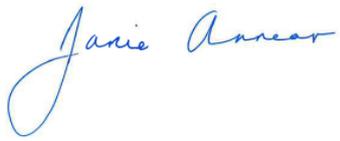
48. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Nelson City Council to be held on 8 October 2022, the following representation arrangements will apply:
- a. Nelson City, as delineated on Plan LG-052-2022-W-1 deposited with the Local Government Commission, will be divided into three wards.
 - b. Those three wards will be:
 - (i) the Whakatū Māori Ward, comprising the area delineated on Plan LG-052-2022-W-2
 - (ii) the Central General Ward, comprising the area delineated on Plan LG-052-2022-W-3
 - (iii) the Stoke-Tāhunanui General Ward, comprising the area delineated on Plan LG-052-2022-W-4
 - c. The Council will comprise the mayor and 12 councillors elected as follows:
 - (i) 3 councillors elected by the electors of Nelson City as a whole
 - (ii) 1 councillor elected by the electors of the Whakatū Māori Ward
 - (iii) 4 councillors elected by the electors of the Central General Ward
 - (iv) 4 councillors elected by the electors of the Stoke-Tāhunanui General Ward.
47. 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 Brendan Duffy (Chair)

¹ All plans referred to in this determination are deposited with the Local Government Commission.

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Commissioner Janie Annear

A handwritten signature in blue ink that reads "Sue Piper". The signature is written in a cursive style with a large initial 'S'.

Commissioner Sue Piper

6 April 2022