



**LOCAL GOVERNMENT COMMISSION
MANA KĀWANATANGA Ā ROHE**

Determination

of representation arrangements to apply for
the election of the South Waikato District Council
to be held on 8 October 2016

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.
2. 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.
3. The South Waikato District Council (the Council) last reviewed its representation arrangements prior to the 2010 local authority elections. Therefore it was required to undertake a review prior to the next elections in October 2016.
4. The Council currently has a ward system of representation as set out in the following table.

Wards	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Tirau	2,190	1	2,190	-140	-6.01
Putāruru	6,410	3	2,137	-193	-8.30
Tokoroa	14,700	6	2,450	+120	+5.15
Total	23,300	10	2,330		

* Based on 2014 population estimates provided by Statistics NZ

5. There is also one community board in the District – the Tirau Community Board covering the area of the Tirau Ward. The board comprises four elected members and one member appointed by the Council.

The council's proposal and review process

6. In its initial representation review proposal, the Council proposed to:
 - retain a 10 member council (excluding the mayor)
 - combine the Tirau and Putāruru Wards into a North Ward and rename the Tokoroa Ward as the South Ward
 - abolish the Tirau Community Board.
7. The Council received 64 submissions which can be summarised as follows:
 - most opposed the two ward proposal and favoured three wards
 - most supported the retention of 10 councillors
 - most opposed the abolition of the Tirau Community Board
 - a smaller number supported a variety of other arrangements for membership, wards or community boards.
8. Submissions on the Council's initial proposal as they related to community boards put forward the following views:
 - 49, specifically or implicitly, sought the retention of the Tirau Community Board
 - 1 sought three community boards across the district (Tirau, Putāruru and Tokoroa)
 - 1, the appellant, sought four community boards across the district (Tirau, Putāruru, Tokoroa and Arapuni)
 - 1 supported the general concept of community boards.
9. Following consideration of submissions, the Council resolved to retain the status quo, i.e. a 10 member council, excluding the mayor, elected from three wards, and the Tirau Community Board.

Appeal

10. One appeal was lodged against the Council's final proposal, from Mr Rod Young.
11. Mr Young's original submission sought four community boards in the district – Tirau, Tokoroa, Putāruru and Arapuni – with each board having 12 members.
12. Mr Young also referred to the desirability of amalgamating South Waikato District with other districts, and a need for forms of representation for Māori. These matters are not part of a representation review and cannot be considered by the Commission as part of this process.

Hearing

13. The Commission met with the Council and the appellant at a hearing held in the South Waikato District Council Chambers on 16 December 2015. The Council was represented at the hearing by the Mayor Neil Sinclair, Chief Executive Craig Hobbs and Deputy Chief Executive Ben Smit.

Matters raised in appeal and at the hearing

14. The Council's Deputy Chief Executive addressed the Commission to outline the process the Council had taken for the review and reasons for its decisions.
15. In relation to community boards, Mr Smit said that:
 - the Council considered there was no need for additional community boards other than the Tirau Community Board
 - Putāruru and Tokoroa were already adequately represented by ward councillors and community and business groups such as Pride in Putāruru and the Tokoroa Business Association
 - there are a variety of community and business organisations in each community that act as a channel for participation by members of the community or as a vehicle for community views to be conveyed to the Council
 - the Council accepted that the Tirau community felt strongly that it would receive better representation and a stronger local voice if the Tirau Community Board remained in existence but the strength of that feeling was not mirrored in other parts of the South Waikato District
 - there did not appear to be a strong community desire for greater representation as evidenced by the 2013 local elections when elections were not required in the Tirau or Putāruru Wards (there being sufficient candidates to fill each position without an election)
 - the Council did not consider that the appellant's proposal for four community boards with a total of 48 members (and a total of 58 elected members including the Council) was necessary for good representation, and that the current number of elected members provided a good ratio of representation to population
16. The Mayor stated in the Council's right of reply that:
 - in 1989, when South Waikato District was established, there was a concern that Tokoroa would overshadow Putāruru and Tirau and community boards were established in the latter two communities to address that concern
 - a community board in Putāruru would supplant much of the role of Pride in Putāruru, and this would be likely to meet a negative reaction from many in the community
 - the Council had a good social involvement and is involved in initiatives such as trade schemes and scholarships

- the Council had followed the proper process and had met the community and listened to and acted on the views put to it.

17. Mr Young said in his presentation to the Commission that:

- the Mayor considered that as community boards had no power they should not exist in the district
- the Council’s review had followed the correct process but only a small number of people had got involved through meetings and submissions
- he would like a caucus of 12 people from the community to be able to give good advice to the Council on behalf of the community
- there was a huge gap in the community between rich and poor
- the district’s governance system should be accessible to all
- remunerated community board members would be better than community organisations having to go “cap in hand” to the Council
- he estimated the cost of having 48 community board members would be \$300,000 a year
- although he was only one person, he represented a sentiment in the community.

Requirements for determination

18. Statutory provisions relating to the determination of appeals and objections on territorial authority representation proposals 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.*

19. Other statutory provisions the Commission is required to consider include those set out in sections 19A, 19C, 19F, 19G, 19T and 19V and these are addressed below.

Consideration by the Commission

20. In addition to determining Mr Young's appeal, the Commission is required by the Act to determine the ward and membership arrangements for the Council and community board arrangements generally.
21. The steps in the process for achieving required fair and effective representation are not statutorily prescribed. As reflected in its *'Guidelines to assist local authorities in undertaking representation reviews'*, the Commission believes that the following steps in 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 identified communities of interest
 - (c) determine fair representation for electors of the district.

Communities of interest

22. Both wards and community boards need to be based on distinct and recognisable communities of interest.
23. The Guidelines identify three dimensions for recognising communities of interest:
- perceptual: a sense of belonging to an area or locality
 - functional: the ability to meet the community's requirements for services
 - political: the ability to represent the interests and reconcile conflicts of the community.
24. The Commission considers that the case for specific representation of distinct and recognisable communities of interest should reflect these dimensions.
25. South Waikato District contains a number of communities of interest. The most obvious of these are those based on the three largest towns – Tokoroa, Putāruru and Tirau – along with their surrounding rural areas. The Council refers to each of these as having a different focus – Tokoroa (forestry, as well as being the administrative centre of the district), Putāruru (a service centre for farming) and Tirau (tourism). There are

also a number of smaller and more discrete communities of interest such as the village of Arapuni.

Effective representation of communities of interest

26. 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.
27. While not a prescribed statutory requirement, the Guidelines also 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.
28. Section 19A of the Act provides that a territorial authority shall consist of between 5 and 29 elected members (excluding the mayor). The Council comprised 14 elected members (excluding the mayor) when it was constituted in 1989 and for the 1992 and 1995 elections, and it has comprised 10 elected members since then. The Council was proposing retention of 10 elected members and the Commission believes this is appropriate for a district of South Waikato's geographic area and population.
29. The Guidelines state that decisions relating to the representation of communities of interest (the political dimension) will need to take account of the extent that distinct geographical communities of interest can be identified, i.e. a physical boundary is able to be defined below the district level for the community of interest. Since its constitution in 1989, South Waikato District has been divided into wards (four wards from 1989 to 1995, and three wards since 1995 when the Tokoroa East Ward was combined with the Tokoroa West Ward to form a single Tokoroa Ward).
30. As described in paragraph 25, there are three broad communities of interest in the District – Tokoroa, Putāruru and Tirau. The Commission notes that the three wards based on these communities of interest have existed for some time and that:
 - submissions showed broad support for the current ward and membership arrangements
 - there have been no appeals against these arrangements.
31. On this basis the wards can be seen to reflect the communities of interest that people have a sense of identity with and belonging to. They are also at a scale that makes them appropriate areas for wards for South Waikato District. Accordingly the

Commission concludes that the proposed ward arrangements, i.e. 10 councillors elected from the current three wards, meet the requirement for effective representation of communities of interest in the District.

Fair representation for electors

32. Section 19V of the Act requires that the electors of each ward receive fair representation having regard to the population of the district and of that ward. More specifically, 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 +/-10% fair representation requirement).
33. As can be seen from the table in paragraph 4, the Council's final proposal for wards and membership complies with this requirement.

Communities and community boards

34. 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.
35. The particular matters the territorial authority 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. The Commission is also required by section 19W to have regard to such of the criteria as apply to reorganisation proposals under the Local Government Act 2002 as it considers appropriate. Those criteria are detailed in clause 3 of Schedule 3 of the Local Government Act.
36. Initially the Council proposed that there be no community boards in the district. In making that decision it appeared to take the view that other organisations outside the Council structure allowed the community to advocate its views to the Council. As examples, it referred to Pride in Putāruru, Waikato River Trails, Overdale Community Centre, Tokoroa Business Association, South Waikato Pacific Island Council, Tokoroa Council of Social Services, Safer Community Council, Youth Leadership and Advisory Board, Sport Waikato, and South Waikato Arts Trust.
37. In reversing its decision to abolish the Tirau Community Board, the Council stated it was recognising the weight of submissions. It also stated that submissions supporting the retention of a Tirau Community Board "make the point that abolition would seriously weaken the ability of Tirau residents to influence events within its area".
38. As far as submissions calling for community boards elsewhere in the district are concerned, the Council stated in its final proposal that:

There is no need for new communities to be established for Putāruru and Tokoroa. These areas are adequately represented by ward councillors, who are generally representing a smaller number of constituents in their wards than other comparable Waikato territorial local authorities.

39. The Commission's understanding of Mr Young's argument is that four community boards would allow for participation in the Council's decision-making to be more representative of the community in a structure with some guaranteed funding.
40. The Commission accepts the Council's conclusions about the Tirau Community Board outlined in paragraph 37 and the implication that it is necessary for effective representation of a community of interest.
41. However, establishing community boards in other parts of the District would be a fundamental change to the District's representation arrangements with some financial cost. The strong support for a community board in Tirau is not mirrored in Putāruru or Tokoroa. The Commission is reluctant to make such a fundamental change to the District's representation arrangements without demonstrated support or a clear understanding by the community of what part community boards could play in the District's governance.
42. The Commission considers that having 10 councillors on the South Waikato District Council (along with four members on the Tirau Community Board) provides effective representation. Taking Tokoroa as an example (as Mr Young's oral submissions focused on Tokoroa), it notes that Tokoroa is already represented by six members on the Council, providing a member to population ratio of 1:2,450. This compares favourably with most councils with a similar or higher population. It means that a reasonable number of people in the District can be elected to office and that residents can have reasonable access to councillors.
43. The Commission therefore endorses the Council's proposal to continue with the Tirau Community Board but not to establish community boards elsewhere in the district. Accordingly it declines the appeal of Mr Young.

Commission's Determination

44. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the South Waikato District Council to be held on 8 October 2016, the following representation arrangements will apply:
 - (1) South Waikato District, as delineated on SO Plan 58035 deposited with Land Information New Zealand, will be divided into three wards.
 - (2) Those three wards will be:
 - (a) Tirau Ward, comprising the area delineated on SO Plan 58036 deposited with Land Information New Zealand
 - (b) Putāruru Ward, comprising the area delineated on SO Plan 434069 deposited with Land Information New Zealand

- (c) Tokoroa Ward, comprising the area delineated on SO Plan 434070 deposited with Land Information New Zealand.
 - (3) The Council will comprise the mayor and 10 councillors elected as follows:
 - (a) 1 councillor elected by the electors of Tirau Ward
 - (b) 3 councillors elected by the electors of Putāraru Ward
 - (c) 6 councillors elected by the electors of Tokoroa Ward.
 - (4) There shall be a Tirau Community, comprising the area of the Tirau Ward.
 - (5) For the Tirau Community, there will be a Tirau Community Board comprising:
 - (a) four elected members
 - (b) the member of the Council representing the Tirau Ward who will be appointed to the community board by the Council.
45. As required by sections 19T(b) and 19W(c) of the Local Electoral Act 2001, the boundaries of the above wards and community coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes.

**REPRESENTATION REVIEWS COMMITTEE
FOR LOCAL GOVERNMENT COMMISSION**



Commissioner Janie Annear (Chair)



Temporary Commissioner Leith Comer



Temporary Commissioner Dr Pauline Kingi

26 February 2016