



**LOCAL GOVERNMENT COMMISSION**  
**MANA KĀWANATANGA Ā ROHE**

**Determination**

of representation arrangements to apply for  
the election of the Tauranga City 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 Tauranga City 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's current representation arrangements are a council comprising the mayor and ten councillors elected as follows:
  - four councillors elected across the city as a whole
  - six councillors elected from wards as follows:

Wards	Population	Number of councillors per ward	Population per councillor	Deviation from city average population per councillor	% deviation from city average population per councillor
Mount Maunganui-Papamoa	43,400	2	21,700	+1,417	+6.98
Otumoetai-Bethlehem	40,700	2	20,350	+67	+0.33
Te Papa-Welcome Bay	37,600	2	18,800	-1,483	-7.31
<b>Total</b>	<b>121,700</b>	<b>6</b>	<b>20,283</b>		

5. There are no community boards in Tauranga City.

### **The council's proposal and review process**

6. The Council considered its representation arrangements at a meeting on 21 April 2015 and resolved to adopt the existing arrangements as its initial representation review proposal.
7. The Council received 24 submissions on the proposal which can be summarised as follows:
  - 16 supported status quo arrangements
  - 5 wanted all councillors elected from wards
  - 3 wanted all councillors elected at large.
8. After considering the submissions, the Council resolved to adopt its initial proposal as its final proposal without amendment.

### **Appeal**

9. One appeal was lodged against the Council's final proposal. The appeal was from Mr Rob Paterson. Mr Paterson raised two matters in his appeal.
10. The first matter concerned the Council giving public notice of its final proposal later than the time required by the Act. Mr Paterson requested the Commission disregard the Council's final proposal and make its determination only taking into account the submissions made to the Council, issues raised and the information provided on the appeal.
11. The other matter raised in the appeal was the Council's decision to retain three wards electing six councillors. Mr Paterson considered that:
  - all councillors should be elected across the city as a whole, or
  - if the above option was unpalatable, one councillor (instead of two) should be elected from each ward and seven councillors elected at large.

### **Hearing**

12. The Commission met with the Council and the appellant at a hearing held in the Tauranga City Council chambers on 17 March 2016. The Council was represented at the hearing by the Mayor Stuart Cosby, Chief Executive Gary Poole and Manager Issue Resolution and Governance Kirsty Downey-McGuire.

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

13. The following is a summary of the main points made at the hearing by the Council in support of its proposal.
  - The Council acknowledged that it resolved its final proposal after the deadline set by the legislation but did ensure that submitters were made aware of the decision and did not consider that anyone had been disadvantaged.

- Tauranga is a fast growing City with particularly high growth in the coastal strip and in Pyes Pa.
- There are reasonably distinct communities of interest in the city.
- Ward councillors are the first point of contact on localised issues and councillors have a good relationship with residents' groups in their wards. The system provides reasonable access for the public to elected members.
- If the Council's initial proposal had been significantly different to the status quo there would have been a significantly larger number of responses compared to the 24 submissions received.
- The Council had consciously decided to retain the current ward boundaries because they are what communities are familiar with.

14. The following is a summary of the main points made at the hearing by the appellant.

- Compliance by the Council with the timeline set out in the Local Electoral Act is mandatory and the Council had not met its statutory obligations.
- Tauranga forms a single community of interest with a good mix of demographic characteristics through the city.
- Voters should be able to vote for all positions on the Council as the Council makes decisions for the benefit of the entire community.
- At large elections will give minority groups more opportunity to be represented on the Council.
- He supported most of the points made by Mike Baker about the benefits of at large elections in his submission on the Council's initial proposal.
- His second option of one member elected from each ward and the boundaries of two of the wards being changed, would be a move in the right direction and these boundaries would better reflect communities of interest.

### Requirements for determination

15. 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—*

- Consider the resolutions, submissions, appeals, objections, and information forwarded to it under section 19Q; and*
- 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,—*
  - In the case of a territorial authority that has made a resolution under section 19H, the matters specified in that section:*
  - In the case of a regional council that has made a resolution under section 19I, the matters specified in that section:*
  - 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.*

16. 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**

#### *Procedural issues*

17. As noted above, the appellant requests the Commission disregard the Council's final proposal on the basis that it was publically notified later than the date required by the Act. However at the hearing it was clarified by the Council that the issue was the fact that its resolution adopting the final proposal was made after the date required by the Act, rather than the public notice being late.
18. Section 19R(1) of the Act provides that after receiving an appeal, the Commission is required to:
- (a) consider the Council's resolutions, the submissions made to the Council, the appeals, and other information forwarded by the Council (public notices and information about communities of interest)
  - (b) determine the matters specified in sections 19H and 19J, i.e. the actual representation arrangements.
19. The Commission is uncertain as to the intent of the appellant's request for the Commission to disregard the Council's final proposal. The Commission still has to determine the representation arrangements for Tauranga City and in doing that has to consider the Council's initial proposal (which was identical to the final proposal), the submissions, the appeal and other information sent to it by the Council under section 19Q of the Act. The Commission, under section 19R(2), can also make other enquiries as it considers appropriate and meet with the Council and the appellant (as it did at the hearing on 17 March 2016).
20. In other words the Commission is required to consider a wide range of material, in addition to the Council's final proposal, and hear a range of points of view in making a determination on appropriate representation arrangements.

21. The Commission also notes that at the hearing it was acknowledged by both the Council and the appellant that the lateness of the making of the Council's final proposal had not, in practice, disadvantaged anyone.
22. Accordingly the Commission has decided not to deal with this matter further.

#### *Commission's approach*

23. 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*

24. 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.
25. The Commission considers that the case for specific representation of distinct and recognisable communities of interest should reflect these dimensions.
26. When undertaking its review, the Council received the following commentary from Council officers on communities of interest in Tauranga City:

*Geographically, Tauranga City is one of the smaller cities in New Zealand comprising an approximate total land area of 17,500 hectares.*

*Within Tauranga City, geographically defined communities of interest can be identified by recognised suburbs.*

*The coastal strip of Mount Maunganui/Papamoa is a distinct community of interest. This is evidenced by:*

- *residents' sense of identity associated with the landscape, history and culture of the Mount Maunganui and Papamoa areas*
- *the distinct geography of the coastal strip and its access to Tauranga City via the harbour bridge crossing*
- *a strong focus on leisure and tourism*

- *issues of local importance being: high visitor numbers; population growth and infrastructural issues; tsunami risk; coastal reserve encroachments, traffic management and liquor bans.*

*Otumoetai/Pyes Pa is an urban area experiencing development and growth.*

*Te Papa/Welcome Bay is an area in which residents are dependent on services and facilities such as schools, retail centres, sporting facilities, and clubs. Transportation is an issue of local importance.*

*The current three wards are considered to reflect the district's communities of interest.*

### *Effective representation of communities of interest*

27. 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.
28. 'Effective representation' is not defined in the Act, but the Commission sees this as requiring consideration of factors including the number of elected members and the appropriate basis of election of members of a particular district.
29. 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.
30. 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 Council comprised 14 councillors when it was constituted in 1989 reducing to 13 in 1998 and to ten in 2004 when a mixed at large/ward system was introduced.
31. The current number of councillors (ten plus the mayor) is not a matter of contention. However, when setting the number of councillors at ten in 2004, the then Commission stated that:
 

*The Commission is aware that Tauranga is one of the most rapidly growing centres in New Zealand. It has just been declared a city as from the 1<sup>st</sup> of March 2004, and its population has also just passed 100,000. The complex issues raised by planning for rapid growth require a reasonable pool of elected members to deal with them. In the*

*Commission's view the minimum sized council for a district of this nature would be a total of ten elected members, excluding the mayor.<sup>1</sup>*

32. 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.
33. Since its constitution in 1989, Tauranga City has been divided into wards – five wards in 1989, reducing to four in 1995 and to three in 2004.
34. The two options proposed by the appellant are all councillors being elected across the city as a whole, or one councillor (instead of two) being elected from each ward and seven councillors elected at large.
35. The issue of at large and/or wards is the same one faced by the Commission when it was required to determine Tauranga City's representation arrangements in 2010.
36. In 2010 the Council's proposal was for ten councillors elected at large and no wards. Seven appeals were lodged against the Council's proposal, each wanting the retention of wards in some form. The Commission decided that the mixed system should be retained but that six councillors (instead of three) should be elected from wards with four being elected at large, i.e. the current system.
37. The Commission's rationale for retaining wards was as follows:

*We observe that wards provide a mechanism to ensure fair geographical coverage of ward-elected members from across the city. We note that Tauranga City's population is significantly larger than other New Zealand councils with at-large representation arrangements. This factor, combined with rapid population growth and the evidence of the existence of local communities of interest within Tauranga, suggests to us that the retention of wards will enable a more easily understood, manageable and, ultimately, effective relationship between residents/community groups and councillors than if wards were disbanded and all members of the Council were elected at-large.*
38. In deciding to increase the number of councillors elected from wards, the Commission stated that:

*We believe that the Council's representation arrangements will be strengthened by the election of two members from each of the three existing wards (subject to an appropriate boundary adjustment), with an additional four members (plus the mayor) elected at large. In our view, of the range of practicable options available, this balance of membership provides the following overall advantages:*

  - (a) It protects the geographical coverage of members and ensures a fair population to member ratio across the city.*
  - (b) It enables electors to vote for a majority of the members of the council (i.e. each elector will be able to vote for two ward members, four at large members, and the mayor, which is seven members out of a total of 11 members).*

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<sup>1</sup> Paragraph 28, 2004 determination

- (c) It provides residents with a choice of ward-elected members to approach.*  
*(d) It allows for more diversity of ward-elected councillors than under single-member wards.*

39. When considering the current situation the Commission concludes that little has changed since 2010 and it comes to similar conclusions as the Commission did in 2010.
40. The one thing that has changed since 2010 is the population of Tauranga City has continued to grow, increasing from 110,600 in 2008 (the date of the statistics used by the Commission in the 2010 review) to 121,700 in 2014. Population projections provided by Statistics New Zealand indicate that Tauranga's population will continue to increase significantly in the future: to 129,200 by 2018 and 138,100 by 2023 (assuming a medium level of growth).
41. The Commission sees this as creating a strong case for some form of ward system. This is because a growing population leads to increasing demands for a fair spread of councillors across the city and availability of 'local councillors'. A larger population is also likely to increase the diversity of the Tauranga community and, given the existence of geographically distinct communities of interest, a ward system is a mechanism to provide effective representation for these communities.
42. According to the Mayor's comments at the hearing, the Council's proposal to retain the current arrangements was a conscious one based on those arrangements being familiar to people. Although there were not a large number of submissions on the Council's proposal, the largest proportion of those supported a ward system. Certainly there was not a large call for changes to the current arrangements.
43. Although the number of submissions for one point of view or other is not the sole determinant of the Commission's decision, they can be one measure of what residents see as providing effective representation for particular communities of interest.
44. On the basis of the above considerations, the Commission concludes that the existing mixed system of representation and number of at large and ward members should be retained.
45. As far as the boundaries of the wards are concerned, the appellant proposes that they be redrawn with areas exchanged between the Te Papa-Welcome Bay Ward and the Otumoetai-Bethlehem Ward. This would deal with a situation where the Commission in 2010 transferred an area from the Te Papa-Welcome Bay Ward to the Otumoetai-Bethlehem Ward so that the latter ward would comply with the +/-10% fair representation requirement. The appellant argued that his proposal would better reflect communities of interest.
46. The Commission has examined this proposal carefully but is not satisfied that the changes sought could be done in a way that both reflects communities of interest and complies with the +/-10% requirement.

47. The Commission determines, therefore, to retain the current ward boundaries.

*Fair representation for electors*

48. 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).

49. 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*

50. 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.

51. The Council is proposing that no community boards be established in Tauranga City and no appeals were received on this issue. In the absence of any appeals, the Commission determines to endorse the Council's proposal.

**Commission's Determination**

52. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Tauranga City Council to be held on 8 October 2016, the following representation arrangements will apply:

- (1) Tauranga City, as delineated on SO 334308 deposited with Land Information New Zealand, will be divided into three wards.
- (2) Those three wards will be:
  - (a) the Mount Maunganui-Papamoa Ward, comprising the area delineated on SO 60086 deposited with Land Information New Zealand
  - (b) the Otumoetai-Bethlehem Ward, comprising the area delineated on SO 42080 deposited with Land Information New Zealand
  - (c) the Te Papa-Welcome Bay Ward, comprising the area delineated on SO 334306 deposited with Land Information New Zealand.
- (3) The Council will comprise the mayor and 10 councillors elected as follows:
  - (a) two councillors elected by the electors of the Mount Maunganui-Papamoa Ward

- (b) two councillors elected by the electors of the Otumoetai-Bethlehem Ward
- (c) two councillors elected by the electors of the Te Papa-Welcome Bay Ward
- (d) four councillors elected by the electors of the city as a whole.

53. As required by sections 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.

**REPRESENTATION REVIEWS COMMITTEE  
FOR LOCAL GOVERNMENT COMMISSION**



Commissioner Janie Annear (Chair)



Temporary Commissioner Leith Comer



Temporary Commissioner Dr Pauline Kingi

7 April 2016