



LOCAL GOVERNMENT COMMISSION
MANA KĀWANATANGA Ā ROHE

Determination

of representation arrangements to apply for
the election of the Wellington City Council
to be held on 12 October 2013

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, arrangements for those boards. Representation arrangements are to be determined so as to provide fair and effective representation for individuals and communities.
2. The Wellington City Council (the Council) last reviewed its representation arrangements prior to the 2007 local authority elections. Accordingly it was required to undertake a review prior to the next elections in October 2013.
3. As a result of appeals/objections on its last review, the representation arrangements that applied for the 2007 and subsequent 2010 elections were determined by the Commission and comprised a mayor and 14 councillors elected as follows.

Ward	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	Percentage deviation from district average population per councillor
Northern	45,700	3	15,233	+933	+6.52
Onslow-Western	43,300	3	14,433	+133	+0.93
Lambton	43,800	3	14,600	+300	+2.10
Eastern	39,700	3	13,233	-1,067	-7.46
Southern	27,700	2	13,850	-450	-3.15
TOTALS	200,200	14	14,300		

*These figures are updated 2011 population estimates.

4. Wellington City currently has two community boards in Makara-Ohariu and Tawa each electing six members.

5. On 29 August 2012 the Council, under sections 19H and 19J of the Act, resolved its initial proposed representation arrangements to apply for the 2013 elections. The proposal was for the retention of existing arrangements i.e. for the council to continue to comprise a mayor and 14 councillors elected from the current five wards. The proposal was also for the retention of the existing two community boards with existing representation arrangements, subject to the exclusion of one meshblock from the area of the Makara-Ohariu Community Board.
6. The Council notified its proposal on 4 September 2012 and 15 submissions were received by the closing date of 5 October 2012.
7. Following consideration of the submissions, the Council on 24 October 2012 resolved to adopt its initial proposal as its final representation proposal.
8. The Council notified its final proposal on 3 November 2012 and sought any appeals by 4 December 2012.
9. One appeal, from the Federation of Wellington Progressive and Residents' Associations, was received against the Council's final proposal. The appeal was against the Council's decision to continue to use the ward system as the basis of election for Wellington City. It also raised several procedural issues relating to the review process adopted by the Council.

Hearing

10. The Commission met with the Council and appellant at a hearing held at the Wellington City Council on 14 February 2013. The appellant was represented by Tom Law, President of the Federation, Wayne Newman and Bernie Harris. The Council was represented by Deputy Mayor Ian McKinnon, Councillors Andy Foster and Helene Ritchie, Legal Adviser Sally Dossor and Special Projects Officer Ross Bly.

Matters raised in appeals and at the hearing

11. Deputy Mayor Ian McKinnon began by outlining the process that the Council had gone through in its review beginning in December 2011. He acknowledged that in previous reviews the Council had undertaken an extensive prior consultation exercise before determining its initial representation proposal. However it had not done so this time in light of the introduction of the Local Government Act 2002 Amendment Bill in early 2012 including new local government reorganisation processes. The Council believed extensive prior consultation on representation arrangements for Wellington City would have resulted in considerable public confusion given discussion then occurring on reorganisation options for Wellington Region. Accordingly, following consideration of an officers' report in August 2012, the Council agreed to resolve its initial proposal which was for retention of status quo arrangements. Councillor McKinnon said the rationale for this decision was that the ward system had worked well since its introduction in 1986. It was widely understood that once elected, councillors acted in the interests of the city as a whole yet they still represented particular areas through their ward. The Council had previously undertaken thorough reviews of the ward structure and believed the current structure was appropriate. Given only 15 submissions were received in the current review, the Council concluded the majority of residents were also satisfied with the current structure. Councillors Foster and Ritchie also spoke in favour of retention of the ward system.

12. Tom Law, President of the Federation of Wellington Progressive and Residents' Associations, addressed the Commission and outlined the nature of the Federation being an umbrella group for 38 local associations. Only two of these associations had requested not to be linked to the appeal. Wayne Newman then addressed the Commission on the ward system in Wellington City and raised questions about whether the system met the principles of the Act in relation to fair and effective representation, reasonably equal opportunities for participation, and providing public confidence and understanding of electoral processes. He said he believed there was confusion in the public about the ward system and who actually were the local ward representatives. The Council had previously undertaken a review of suburbs in the city and these were often confused by residents in relation to wards which often appeared to have artificial boundaries grouping together different communities of interest. This was demonstrated by the number of wards in Wellington which had varied at different times between five and seven. Bernie Harris also addressed the Commission further outlining the nature of the role of the Federation and how it operated saying it had a good understanding of the city. He said there had been a loss of confidence in the Council and it was now important that people could vote for candidates with the right skills from across the city not just in the current wards.

Requirements for determination

13. 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.*
14. 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.

Procedural issues

15. The appellant raised some procedural issues about the Council's decision-making process including the timeframe within which the Council had conducted its review, alleged inaccuracies in the public notices and a failure to follow recommended good practice in relation to prior consultation. The Commission's *'Guidelines to assist local authorities in undertaking representation reviews'* refer to a High Court decision that found that the Commission's role is not merely supervisory of a local authority's representation arrangements decision. The Guidelines state the Commission is "required to form its own view on the matters which are within the scope of the review". The Commission must therefore form its own view on the matter of fair and effective representation for individuals and communities within Wellington City and therefore issues relating to the Council's decision-making process are not matters that the Commission needs to address.

Consideration by the Commission

16. 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

17. 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.
18. The Commission considers that the case for specific representation of distinct and recognisable communities of interest will need to reflect these dimensions.

Effective representation of communities of interest

19. 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.
20. 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.
21. Section 19A of the Act provides that a territorial authority shall consist of between 5 and 29 elected members (excluding the mayor). The Council initially comprised 21 elected members (excluding the mayor) on its constitution in 1989 and for the 1992 elections. The number of members (excluding the mayor) then ranged between 18 and 19 between 1995 and 2001 and reduced to 14 members in 2004 and for subsequent elections. This gives the city one of the lowest levels of councillor representation for cities with a population over 100,000.
22. 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. Wellington City as constituted in 1989 was initially divided into seven wards and for the 1992 elections, and has then comprised either five or six wards since that time.
23. The Council was proposing to retain the current five ward structure and this was the basis for the appeal against the proposal. As noted Wellington City, as presently constituted, has been divided into wards since its constitution in 1989 and in fact the previous city also had wards. Given this history we believe it is important for the Council to consult the community specifically on this issue before a change is contemplated. We note only 15 submissions were received on the Council's initial proposal, from a population in excess of 200,000, with seven supporting the Council's proposal and four opposed to the ward system. We acknowledge the appellant would argue this level of response is a reflection on the lack of consultation and publicity given by the Council in the current review particularly prior to determining its initial proposal. However, we also note that in the 2006 review, 598 submissions were received on the Council's initial proposal and these were primarily (556) on the Council's proposal to abolish the Tawa Community Board. A total of 14 submissions were received on a variety of other issues in that review, including conducting elections at large or by a mixed system of at large and wards, and also on the issue of the number of councillors. We do not believe, on these numbers over the last two reviews, that it is appropriate for the Commission to determine, there will be a change in the basis of election for the city. This is an issue which the Council must engage the city in discussing with a full list of the advantages and disadvantages of wards and at large systems of election, as well as the option of a mixed system. Such a debate is also important in Wellington City given its use of the STV electoral system, as the impact of a change in the basis of election needs to be carefully considered in relation to the nature and particular requirements of this electoral system as well.

24. In light of the above comments, we have decided to uphold the decision of the Council to continue to conduct its elections using the ward system.

Fair representation for electors

25. 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 rule'). The Council's proposal complies with the '+/-10% rule' and we endorse the current ward structure and representation arrangements.

Communities and community boards

26. 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.
27. There have been two community boards in Wellington City since its constitution in 1989. These are the Makara-Ohariu and Tawa Community Boards. We received no appeals against the Council's proposal that these two boards be retained with their current representation arrangements but subject to the exclusion of one meshblock from the Makara-Ohariu community. This minor boundary alteration follows a subdivision in the Crofton Downs area with a result that the community of interest for the area is now seen to be with Crofton Downs rather than the Makara-Ohariu community. On this basis we have decided to endorse the Council's proposal retaining the two boards with their current membership.

Commission's Determination

28. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Wellington City Council to be held on 12 October 2013, the following representation arrangements will apply:
- (1) Wellington City, as delineated on SO Plan 35959 deposited with Land Information New Zealand, will be divided into five wards.
 - (2) Those five wards will be:
 - (a) Northern Ward, comprising the area delineated on SO Plan 37883 deposited with Land Information New Zealand
 - (b) Onslow-Western Ward, comprising the area delineated on SO Plan 335633 deposited with Land Information New Zealand
 - (c) Lambton Ward, comprising the area delineated on SO Plan 37886 deposited with Land Information New Zealand
 - (d) Eastern Ward, comprising the area delineated on SO Plan 37887 deposited with Land Information New Zealand
 - (e) Southern Ward, comprising the area delineated on SO Plan 37888 deposited with the Local Government Commission.

- (3) The Council will comprise the mayor and 14 councillors elected as follows:
 - (a) 3 councillors elected by the electors of Northern Ward
 - (b) 3 councillors elected by the electors of Onslow-Western Ward
 - (c) 3 councillors elected by the electors of Lambton Ward
 - (d) 3 councillors elected by the electors of Eastern Ward
 - (e) 2 councillors elected by the electors of Southern Ward.
- (4) There will be two communities as follows:
 - (a) Makara-Ohariu Community, comprising the area delineated on LG-047-2013-Com-1 deposited with the Local Government Commission
 - (b) Tawa Community, comprising the area delineated on SO Plan 37411 deposited with Land Information New Zealand.
- (5) The membership of each community board will be as follows:
 - (a) Makara-Ohariu Community Board will comprise six elected members
 - (b) Tawa Community Board will comprise six elected members and two members representing Northern Ward appointed to the community board by the Council.

29. As required by sections 19T(b) and 19W(c) of the Local Electoral Act 2001, the boundaries of the above wards and communities coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes.

THE LOCAL GOVERNMENT COMMISSION



Basil Morrison (Chair)



Anne Carter (Commissioner)



Grant Kirby (Commissioner)

3 April 2013