



## **Determination**

of representation arrangements to apply for the election of the Wellington 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 Wellington City Council (the council) last reviewed its representation arrangements prior to the 2019 local authority elections. In May 2021 it resolved to establish Māori wards. Accordingly, it was required to undertake a review prior to the next elections in October 2022.
3. The Commission last made a determination in relation to the Council's representation in 2019. The council's current representation arrangements have been in place since as follows:
  - a. a council comprising a mayor and 14 councillors elected from 5 wards as follows:
    - Takapū/Northern Ward, electing three councillors
    - Wharangi/Onslow-Western Ward, electing three councillors
    - Pukehīnau/Lambton Ward, electing three councillors
    - Paekawakawa/Southern Ward, electing two councillors
    - Motukairangi/Eastern Ward, electing three councillors
  - b. Two community boards, being:
    - Tawa Community Board (6 elected members and 2 appointed members)
    - Mākara-Ōhāriu Community Board (6 elected members)

### **Current review: Council process and proposal**

4. On 26 August 2021 the Council resolved as its initial representation proposal for a council comprising 15 members elected from 6 wards, plus the mayor. The proposal retained the Tawa Community Board and the Mākara-Ōhāriu Community Board.

5. The initial proposed ward arrangements were as follows:

Ward	Electoral population estimate*	Number of councillors per ward	Population per councillor	Deviation from district average pop <sup>n</sup> per councillor	% deviation from district average pop <sup>n</sup> per councillor
Takapū/Northern General	48,800	3	16,267	1,496	+10.12
Wharangi/Onslow-Western General	43,300	3	14,433	-338	-2.23
Pukehīnau/Lambton General	44,100	3	14,700	-71	-0.48
Paekawakawa/Southern General	37,500	2	12,500	2,271	-15.38
Motukairangi/Eastern General	33,100	3	16,550	1,779	+12.04
<b>Total General</b>	206,800	14	Avg 14771		
Te Whanganui-a-Tara Māori	9,410	1	9,410	N/A	N/A
<b>Total</b>	<b>216,210</b>	<b>15</b>	<b>14,414</b>		

\*Based on Tatauranga Aotearoa Stats NZ 2020 electoral population estimates

6. The Council received 52 submissions on its initial proposal. Of those, 31 were in favour of the proposal and 21 contained objections to various elements of the proposal.

7. The submissions can be summarised as follows:

- majority (59%) support retaining the current general ward boundaries (the Council's proposed representation arrangements)
- 41% oppose retaining the current ward structure, of which seven (13% of total) stated non-compliance as the reason for not supporting it
- some explicit opposition (27%) to, and some explicit support (10%) for, at large councillors
- Three submissions (6% of total) supported having either wards with more councillors or one general ward covering the whole city
- Six submissions (12% of total) supported one of two alternative ward-based options discussed in the officers' initial report, both of which were compliant with the '+/- 10% rule'

8. The Council rejected the other matters raised in submissions for the following reasons:

Submission Theme	Proposed Response
Council should have some councillors elected at-large.	Feedback received was supportive of having councillors elected solely from wards. The proposal provides for more effective

	representation than having some councillors elected at-large.
Council should be elected from one general ward and one Māori ward.	Feedback received was supportive of the current ward system. The proposal provides for more effective representation than Council being elected from one general ward.
Council should be elected under option 2 in the consultation document.	Feedback received was supportive of the current ward system and Council being elected under option 2 of the consultation document will not most effectively represent Wellington City because it would split communities of interest between wards.
Council should be elected under option 3 in the consultation document.	Feedback received was supportive of the current ward system and Council being elected under option 3 of the consultation document will not most effectively represent Wellington City because it would split communities of interest between wards.
Council representation should meet the criteria under the Act for fair representation.	Changes to the current ward structure will not most effectively represent Wellington City because it would split communities of interest between wards.
There should not be more councillors for cost reasons.	Councillor remuneration comes from a pool set by the Remuneration Authority. Increasing the number of councillors will not increase remuneration costs to the Council.
It would be undemocratic by allowing one councillor to be elected regardless of the amount of votes he/she receives.	The highest polling candidates in each ward will be elected under the STV voting system.

9. On 28 October 2021 the Council resolved to adopt its initial proposal as its final proposal without any amendments.
10. The Council publicly notified its final proposal, including advice that Takapū/Northern General Ward, Motukairangi/Eastern General Ward, and Paekawakawa/Southern General Ward did not comply with the fair representation criteria.
11. Given the non-compliance of the proposed ward, the council was required under section 19V(4) of the Act to refer its proposal to the Commission for determination. In addition, two appeals against the proposal were received.

### **Appeals/objections against the council's final proposal**

12. Two appeals received on the Council's final proposal were considered and covered the following matters:
  - a. that the general electoral population be elected from one district-wide general ward as this would address the non-compliance issue. Arguing that a single district-wide general ward is consistent, fair and equitable, with the district-wide Māori ward electing one councillor.

- b. opposes the use of te reo Māori in the general ward names and objects to the non-compliance of three general wards, arguing that the council should instead consider one of the compliant alternative options.
13. The Council referred the appeals to the Commission, in accordance with section 19Q of the Act.

### **Need for a hearing**

14. For the purpose of making a determination, the Commission may make such enquiries as it considers appropriate and may hold meetings with the interested parties. There is no obligation on the Commission to hold a hearing and the need for a hearing is determined by the information provided by the parties and as a result of any further inquiries the Commission may wish to make.
15. In the case of Wellington City Council's final proposal, the Commission considered there was sufficient information in the documentation provided by the Council on the process it had followed in making its decision and in the appeals for the Commission to proceed to a determination. Accordingly, it was decided no hearing was required.

### **Matters for determination by the Commission**

16. Section 19R of the Act makes it clear that the Commission, in addition to consideration of the appeals and objections against a council's final representation proposal, is required to determine, in the case of a territorial authority, all the matters set out in sections 19H and 19J which relate to the representation arrangements for territorial authorities. This interpretation was reinforced by a 2004 High Court decision which found that the Commission's role is not merely supervisory of a local authority's representation arrangements decision. The Commission is required to form its own view on all the matters which are in scope of the review.
17. The Council's review process is not one of the matters set out in sections 19H and 19J. Any concerns expressed by appellants and objectors relating to the council's review process are not a basis for the Commission to overturn a council's proposal. The Commission may, however, comment on a council's process as part of its determination.
18. 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.

## Key considerations

19. 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

20. 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.
21. 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.
22. 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.

## Effective representation of communities of interest

23. 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).

24. '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).
25. 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.
26. 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.
27. As observed by the Commission in its 2019 determination, the topography of Wellington creates natural boundaries between various communities of interest. The boundary separating the Motukairangi/Eastern Ward from the Pukehīnau/Lambton and Paekawakawa/Southern wards runs along a ridgeline (including Mount Victoria) and through the town belt.
28. Topography also naturally encloses the proposed Paekawakawa/Southern Ward. The ridgeline along the eastern boundary separates it from the Motukairangi/Eastern Ward. To the west are extensive and rugged areas, either farmed or in scrub.
29. The Paekawakawa/Southern Ward is separated from the Pukehīnau/Lambton Ward, in the most part, by parks and reserves and other open space. Much of those areas are in bush and there is also a very definite slope for much of the length of the boundary. Topography forms a natural boundary between communities and any alteration would inevitably would split communities of interest. The only section where the boundary is not a topographical divide is between Mount Cook in the Pukehīnau/Lambton Ward and Newtown in the Paekawakawa/Southern Ward.

### **Fair representation for electors**

30. 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').
31. However, section 19V(3)(a) permits non-compliance with the '+/-10% rule' for territorial authorities in some circumstances. Those circumstances are where:

- a. non-compliance is required for effective representation of communities of interest within island communities or isolated communities
  - b. compliance would limit effective representation of communities of interest by dividing a community of interest
  - c. compliance would limit effective representation of communities of interest by uniting two or more communities of interest with few commonalities.
32. The Council’s proposal includes three general wards that do not comply with the ‘+/- 10% rule’. These are Motukairangi Eastern Ward (-15.38%), Paekawakawa Southern Ward, Takapū Northern Ward (+10.12%).
33. These changes are due mainly to population growth, and in part to the separation of the general electoral population (GEP) and Māori electoral population (MEP) following the Council’s decision to establish a Māori ward. A comparison of changes in the compliance of the City’s general wards since 2013 is provided in the table below:

Wellington City General Wards	% deviation from district average population per councillor		
	2013	2019	2022
Takapū Northern Ward	+6.53	+5.38	+10.12
Wharangi Onslow-Western Ward	+0.93	-2.17	-2.23
Pukehīnau Lambton Ward	+2.1	+1.28	-0.48
Motukairangi Eastern Ward	-7.46	-13.97	-15.38
Paekawakawa Southern Ward	-3.15	+14.23	+12.04

34. The Council’s current representation arrangements were determined by the Commission in 2019 due to the non-compliance of two of the City’s wards, the Motukairangi/Eastern Ward (-13.97) and the Paekawakawa/Southern Ward (+14.23%). In its 2019 Determination, the Commission endorsed the non-compliance for both wards.
35. In 2019, the largest non-compliance the Commission endorsed for Wellington City was +14.23% in the Paekawakawa/Southern Ward. In the Council’s proposal for 2022, the largest non-compliance is -15.38% in the Motukairangi Eastern Ward. It can be considered that these non-compliances are within a similar range.
36. Prior to resolving its current arrangements in 2018, the Council undertook preliminary engagement via a research panel, resulting in 456 responses. The results in 2018 were that 22% of respondents believed there were communities of interest that the Council should take into account, 37% did not, and 41% did not know. Despite this, there was majority support (81%) for some form of geographic representation. This was almost evenly split between those preferring wards only and those preferring a mixed wards/at large system. A smaller majority of these respondents also wanted no changes to wards.
37. In its 2019 Determination the Commission noted that the present five ward system has been in place since 2004 and can be seen to be very familiar to residents. As mentioned above, it also acknowledges the role of Wellington’s topography in

forming natural boundaries between various wards. Some further indication that suburb-based communities identify with their existing wards may be inferred from submissions to the Council's 2018 initial proposal. These suggested:

- majority opposition to shifting the suburb of Southgate between wards
- majority support for joining the suburb of Brooklyn in one ward when it had previously been split between two

38. As part of the council's process, it considered various alternative options. The report to Council on the initial proposal outlined two of these alternative options, both of which were compliant with the '+/- 10%' rule. As noted above, one of the appellants argues that either one of these options should be pursued. Whilst these options might achieve compliance, they are not developed in sufficient depth to provide a high level of assurance that they better reflect fair and effective representation for the City's communities of interest. In addition, it is not clear whether these options retain, alter or disestablish the two existing community boards. In summary:

- Option 2 provided for 16 councillors plus the mayor; 12 elected from three general wards aligned to the parliamentary electorates in Wellington (Rongotai, Wellington Central, and Ōhāriu, with the small portion of the Mana electorate within the Wellington City boundary being in the Ōhāriu Ward), one elected from a district-wide Māori ward, and three elected at large. The main consideration in this option appears to be consistency for most voters.
- Option 3 provided for 16 councillors plus the mayor; 12 elected from six general wards, one elected from a district-wide Māori ward, and three elected at large. This option requires significant boundary changes and again, there is little discussion of how these changes are informed by, or effect, communities of interest except that they are based on the movement of entire suburbs. This option potentially results in the splitting of Johnsonville and Newlands, two suburbs that are considered together to be a community of interest.

39. The options did not expand on how the proposed ward boundaries ensure fairer and effective representation than the current boundaries. There was no discussion regarding the effect of the boundary changes on communities of interest and it appears that, aside from limited pre-engagement with Wellington City Youth Council, there was limited preliminary consultation to inform these boundary changes. Furthermore, the proposed boundary change between the southern and eastern wards ignores the ridgeline that acts as a natural boundary between the wards as highlighted in the 2019 Determination.

40. In its final resolution the Council noted that it did not alter the current ward boundaries as to do so would split communities of interest.

41. Given the clearly defined suburbs and the topography of the city, any other boundary changes to the proposed wards in order to comply with the '+/- 10% rule' are likely to split communities of interest. Any such boundary changes are also likely to be fairly arbitrary. It is possible that such boundary changes would just shift the non-compliance with the '+/- 10% rule' to other wards.

42. In summary, we consider the proposed wards (including the non-complying Motukairangi/Eastern General Ward, Paekawakawa/Southern General Ward and Takapū/Northern General Ward), reflect current communities of interest.



Compliance with the section 19V(2) ‘+/- 10%’ requirement for these wards would require arbitrary boundary change that would likely split communities of interest. In terms of section 19V(3)(ii) this would limit effective representation of communities of interest by dividing a community of interest between wards.

43. We therefore agree that the council’s proposal that the Motukairangi/Eastern General Ward, Paekawakawa/Southern General Ward and Takapū/Northern General Ward not comply with section 19V(2) be endorsed.

## **Communities and community boards**

44. 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.
45. In the current review, the retention of the two existing community boards was not the subject of any appeals.

## **Commission’s determination<sup>1</sup>**

46. 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 8 October 2022, the following representation arrangements will apply:
  1. Wellington City, as delineated on LG-047-2019-W-1, will comprise the mayor and 15 councillors and be divided into six wards as follows:
    - a. Te Whanganui-a-Tara Māori Ward, comprising the area delineated on LG-047-2022-W-1, electing one councillor
    - b. Takapū/Northern General Ward, comprising the area delineated on LG-047-2019-W-2, electing three councillors
    - c. Wharangi/Onslow-Western General Ward, comprising the area delineated on LG-047-2019-W-3, electing three councillors
    - d. Pukehīnau/Lambton General Ward, comprising the area on LG-047-2019-W-4, electing three councillors
    - e. Motukairangi/Eastern General Ward, comprising the area on SO 37887, electing three councillors
    - f. Paekawakawa/Southern General Ward, comprising the area on LG-047-2019-W-5, electing two councillors.

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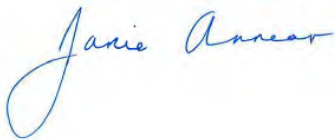
<sup>1</sup> Plan references preceded by SO are deposited with Land Information New Zealand, and plan references preceded by LG are deposited with the Local Government Commission.

2. There will continue to be two communities as follows:
  - a. Mākara-Ōhāriu Community, comprising the area delineated on LG-047-2019-Com-1, with a community board comprising six elected members
  - b. Tawa Community comprising the area delineated on LG-047-2015-Com-1, with a community board comprising six elected members and two appointed members.
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)



Commissioner Janie Annear



Commissioner Bonita Bigham

4 April 2022