



Determination

of representation arrangements to apply for
the election of the Napier City Council
to be held on 12 October 2019

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, membership arrangements for those boards. Representation arrangements are to be determined so as to provide fair and effective representation for individuals and communities.
2. The Napier City Council (the council) last reviewed its representation arrangements prior to the 2013 local authority elections. Therefore it was required to undertake a review prior to the next elections in October 2019.
3. At the time of the last review, the council's initial and final proposals were to retain status quo arrangements being a mixed system of representation with six councillors elected from four wards and six elected at large, with no community boards. One appeal was received with the appellant seeking a modified basis of election of three wards each electing two councillors and four councillors elected at large. Based on community support for retaining status quo arrangements and the absence of strong arguments for change, the Commission rejected the appeal.
4. As a result of that determination, the arrangements that applied for the 2013 and subsequent 2016 elections were a council comprising a mayor and 12 councillors with six elected at large and six elected from four 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
Ahuriri	9,230	1	9,230	-407	-4.22
Onekawa-Tamatea	9,640	1	9,640	+3	+0.03
Nelson Park	18,450	2	9,225	-412	-4.28
Taradale	20,500	2	10,250	+613	+6.36
Total	57,820	6	9,637		

* Based on 2011 population estimates

Preliminary consultation on current representation review

5. For its current review the council undertook preliminary consultation on possible representation arrangements in September-November 2017. This was by way of ‘pop-up’ events, a focus group, meetings with particular groups and social media. A survey was also conducted with 618 responses received. Key findings from the survey were:
 - three quarters (74.6%) of respondents were able to name the ward they lived in
 - most respondents (67.9%) identified their main community of interest as ‘Napier’
 - 42.3% of respondents preferred status quo arrangements of a mixed system of representation (combination of councillors elected at large and by wards)
 - 11.8% of respondents preferred a full ward system
 - 52.4% of respondents said the size of council should stay the same
 - 30.3% wanted community boards while 42.6% of respondents did not.
6. As part of its initial consideration, the council identified the following possible options:
 - the status quo (6 councillors elected from four wards, 6 elected at large)
 - 8, 11 or 12 councillors elected from wards
 - 8, 10, 11 or 12 councillors elected under a mixed system, with varying numbers elected by three or four wards and at large.
7. It also considered establishment of community boards in Bayview and Maraenui.

The council’s initial proposal

8. At a meeting on 9 April 2018, the council, after considering possible options to reduce the number of wards from four to three, resolved to adopt status quo arrangements as its initial representation proposal. The proposal provided for a council comprising the mayor and 12 councillors with six councillors elected at large and six elected from four 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
Ahuriri	10,200	1	10,200	-125	-1.21
Onekawa-Tamatea	10,400	1	10,400	+75	+0.73
Nelson Park	18,750	2	9,375	-950	-9.20
Taradale	22,600	2	11,300	+975	+9.44
Total	61,950	6	10,325		

* Based on 2017 population estimates

9. The initial proposal also provided that no community boards be established.
10. The council notified its initial proposal on 11 April 2018. By the deadline of 17 May 2018, it had received 37 submissions.
11. The council analysed the submissions as follows:

- 26 (70%) supported a ward-only system for the election of councillors
- 6 (17%) supported the current mixed system
- 1 (3%) supported the at large system
- 3 (8%) were not clear on their preferred system (wards, mixed or at large)
- 19 (51%) were happy with the current number of councillors (12)
- 3 (8%) supported 10 councillors
- 1 (3%) supported 16 councillors
- 14 (38%) did not comment on the number of councillors
- 2 (5%) supported the establishment of community boards
- 15 (41%) did not support the establishment of community boards
- 20 (54%) did not comment on community boards.

The council's final proposal

12. The council heard submissions on its initial proposal and determined its final proposal on 26 June 2018. The final proposal was for a full ward system of representation with 12 councillors elected from the existing four 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
Ahuriri	10,200	2	5,100	-63	-1.22
Onekawa-Tamatea	10,400	2	5,200	+37	+0.72
Nelson Park	18,750	4	4,688	-476	-9.21
Taradale	22,600	4	5,650	+487	+9.43
Total	61,950	12	5,163		

* Based on 2017 population estimates

13. Again the proposal was that no community boards be established.
14. The final proposal was publicly notified on 4 July 2018.

Appeals/objections against the council's final proposal

15. Two objections were lodged against the council's final proposal from Clayton Fppard and Anthony McLagan.
16. Both objections were against the proposed change from a mixed system to a full ward system of representation. The main grounds for the objections were:
- the change in the basis of election was based on the number of submissions supporting a ward system of representation (26 out of a total of 37) whereas 42 per cent of the over 600 responses to the council's preliminary consultation survey preferred the current mixed system of representation
 - the reduced number of councillors voters would be able to vote for under a ward system of representation
 - some perverse results such as a lack of candidates for wards under the current system

- the ineffectiveness of ward councillors compared to the mana of at large councillors
- it is not necessary to have four councillors for wards
- the current mixed system of representation has served Napier well
- any change should be made following a public referendum.

Matters for determination by the Commission

17. 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.
18. These matters include:
- whether the council is to be elected from wards, the district as a whole, or a mix of the two
 - the number of councillors
 - if there are to be wards, the area and boundaries of wards and the number of councillors 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.
19. 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 enquiries the Commission may wish to make.
20. In the case of Napier City Council's final proposal, we considered there was sufficient information in the documentation provided by the council on the process it had followed in making its decision and also in the two objections for us to proceed to a determination. Accordingly we decided no hearing was required.

Key considerations

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

Communities of interest

22. The Guidelines identify three dimensions for recognising communities of interest:

- *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
 - *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
 - *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.
23. 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.
24. In addition to evidence 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.
25. In the case of Napier City, we note more than two-thirds of respondents in the council’s preliminary consultation survey identified their community of interest as ‘Napier’. However, a detailed council officers’ report also identified a number of local communities of interest based at a suburb level. It appears to us that striking the appropriate balance between the city-wide Napier community of interest and possible more localised communities of interest is the fundamental issue to be addressed in relation to the council’s final proposal and the objections received.

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 mix of both) will provide effective representation of communities of interest within the city
 - 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 (where they exist).
27. ‘Effective representation’ is not defined in the Act, but the Commission sees this as requiring consideration of factors including an appropriate total number of elected members and an appropriate basis of election of members for the district concerned (at large, wards, or a mix of both).

28. 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 city as a whole. In other words, the total number of members should not be arrived at solely as the product of the number of members per ward, if there are to be wards.
29. 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. With the exception of the 1995 triennium, the Napier City Council has comprised 12 councillors since its constitution in 1989.
30. In its review the council identified some city councils with a higher ratio of population per councillor than Napier City. However, we consider a total of 12 councillors is within an appropriate range in the number of councillors and comparable with other city councils with populations between 50,000 and 100,000. We also note that a majority of respondents in the council's preliminary consultation survey supported retention of the current 12 councillors and in addition there was support for this number in the submissions received on the council's initial proposal.
31. As noted, the decision on the basis of election (at large, wards or a mix of both) requires a balancing of identified communities of interest to ensure their effective representation.
32. The Commission's Guidelines note the following factors need to be considered when determining effective representation:
 - avoiding arrangements that may create barriers to participation, such as at elections by not recognising residents' familiarity and identity with an area
 - not splitting recognised communities of interest between electoral subdivisions
 - not grouping together two or more communities of interest that share few commonalities of interest
 - accessibility, size and configuration of an area including access to elected members and vice versa.
33. Since 1989, Napier City has had experience of all three bases of election. The council recognised this fact in its consideration of its current proposal.
34. As background information for the council's initial proposal, council officers prepared a comprehensive report analysing fair and effective representation arrangements for Napier City dating back to 1977. This was undertaken on the basis that the main change that has occurred in Napier City over this period has been to the basis of election, i.e. the number of councillors has remained reasonably consistent and there have been no community boards throughout the period.
35. The report identified the following key issues for consideration:
 - voter turnout
 - diversity of candidates/elected members
 - number of candidates standing
 - communities of interest in the city
 - ward effectiveness.

36. The officers' analysis of the three basis of election options against these issues over the identified period showed:
- *the ward system*: highest voter turnout; highest number of candidates and no seats unopposed; highest geographical spread of candidates and elected members; second highest percentage of female candidates and elected members
 - *the current mixed system*: lowest voter turnout; second highest number of candidates; second highest geographical spread of candidates and elected members; highest percentage of female candidates and elected members; highest number of seats unopposed (due to the one seat and two seat wards which typically do not attract as many candidates for people to choose from than in the other systems)
 - *the at large system*: second lowest voter turnout; lowest number of candidates; lowest geographical spread of candidates and elected members; lowest percentage of female candidates and elected members; no seats unopposed.
37. We believe caution does have to be exercised in direct comparisons of this kind as the issues identified can be subject to a range of influences and direct causal relationships are at best debateable. This is particularly the case in respect of voter turnout which research has shown in both New Zealand and internationally, is subject to a range of factors and, regardless of the basis of election, is showing a general downward trend internationally. There can also be circumstantial factors relating to a particular election, such as high profile candidates and recent decisions by the council which can significantly influence interest and involvement in that election.
38. However, we acknowledge the work done by the council officers and consider some weight can be given to the analysis particularly in respect of representation effectiveness such as numbers of candidates, their diversity and geographical spread.
39. The officers' report noted that more than two thirds of respondents in the preliminary consultation survey identified their community of interest as 'Napier'. This provides support for an at large system, or at least a mixed system of representation with an at large component. The report, however, did also identify more local communities of interest characterised by diverse demographics, access to local facilities and community representation. Most of these were identified within particular suburbs. At the same time the present ward structure, with some exceptions, was seen to cater for suburbs that shared communities of interest or at least had commonalities.
40. The report analysed the effectiveness of the current four-ward structure in providing representation for identified communities of interest. It concluded that the Taradale and Ahuriri wards each shared similarities in communities of interest within those wards, and more so than in the case of the Onekawa-Tamatea and Nelson Park wards. Within the latter two wards, the report identified some more distinct communities of interest i.e. with fewer similarities with other communities of interest within the ward.
41. It was also noted that Nelson Park Ward residents were the least engaged in local democracy and as having the highest deprivation levels which can be a barrier to engagement. Nelson Park Ward residents were the least able to name the ward they resided in.

42. Despite the variations, the report concluded that a full ward system, based on the current four-ward structure, would be the most effective of the three options available in representing communities of interest.
43. A particular advantage of the full ward system was seen as avoiding single-member wards as exist under the current mixed system. This was in light of the analysis showing that in Napier single-member wards had resulted in fewer ward contests at elections and less choice for voters. The report stated that avoiding single member wards (in both Nelson Park and Onekawa-Tamatea wards) “helps to improve voter choice and representation for ward residents”.
44. While the report found the full ward system provided the most effective representation, it noted some concerns and anomalies with the current four-ward structure. These included some suburbs being split between wards in part as a result of the use of particular roads, such as Kennedy Road, as ward boundaries and thereby likely to split communities of interest.
45. This resulted in the council requesting the officers to do further work on ward boundaries including the option of reducing the wards to three as existed between 1989 and 1998. While possible ward changes were considered, the council did not adopt any of these in its final proposal.
46. We consider, regardless of whether a mixed or full ward system of representation is adopted, more work on the boundaries of wards, as reflections of communities of interest, would be beneficial. This should include whether the current four-ward structure, introduced for the 2007 elections, continues to provide the most effective representation for all identified communities of interest in the city having regard to all three dimensions of communities of interest as identified above. We believe, given the amount of work done on communities of interest in Napier City for this review, there is now a good base to undertake this further work.
47. In determining its initial proposal, i.e. retention of the mixed system of representation, the council clearly took into account the results of the preliminary consultation survey (618 responses) which showed 42 per cent of respondents preferred the mixed system, 27 per cent preferred the at large system, and 12 per cent preferred the ward system.
48. However, after considering the 37 submissions received on its initial proposal, the council resolved to move to a wards-only system, based on 70 per cent support in the submissions for this system, 16 per cent support for a mixed system and 3 per cent support for an at large system.
49. In moving from a mixed system to a wards-only system the council put a lot of weight on the officers’ report, referred to above, providing detailed analysis of fair and effective representation arrangements under the different systems along with the number of submissions on the council’s initial proposal supporting such a change.
50. Both objectors have outlined their preference for retention of status quo arrangements largely on an ‘if it ain’t broke don’t fix it’ basis and also based on a comparison of the numbers supporting no change in the preliminary consultation survey.

51. We note there is no legislative provision for a referendum on the basis of election, as suggested by one objector, and the council is entitled to resolve its final proposal following appropriate community consultation.
52. We note further, the tension that arose during the council's review process between the results of the preliminary consultation survey (supporting no change to the basis of election) and the analysis provided in the officers' report on which the council relied in large measure in its decision on its final proposal (which was also available at the time of the council's initial proposal). Given this, and in the interests of a truly robust process, the council may have been better advised to have proposed a change to the basis of election in its initial proposal.
53. The council would then have been in a better position to gauge wider community support for change to the basis of election vis-à-vis status quo arrangements.
54. In proceeding to a determination, we needed to consider the weight to be given to the clear support in the preliminary consultation for retention of status quo representation arrangements (the mixed system) vis-à-vis the submissions on the council's initial proposal supporting change, together with the analysis provided by council officers on the most fair and effective representation arrangements.
55. In relation to the non-prescribed and informal preliminary consultation, it is noted that the council has regularly undertaken resident surveys on a range of council services and issues and, when asked, residents have generally tended to favour current status quo representation arrangements.
56. Given the depth of the analysis provided, evidence of the council's consideration of this analysis and the submissions received, and the fact the final proposal has only drawn two objections, we have decided to endorse the council's proposal for a ward-only system of representation. In making this endorsement, we observe that there are pros and cons to each of the options for the basis of election and a council is generally in the best position to assess these pros and cons in relation to its own city/district. Subject to the council going through a good process in assessing these and carefully considering community views throughout the process, we believe it is appropriate to endorse a council's decision on the choice of options such as basis of election. We are satisfied in this regard in relation to Napier City Council's decision.
57. As noted, we do recommend, however, the council undertakes further work as part of its next review to determine whether the current four-ward structure will continue into the future to provide the most effective representation for the more local communities of interest in Napier City.

Fair representation for electors

58. For the purposes of achieving fair representation for the electors of a city, 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 city divided by the total number of members (the '+/-10% rule').
59. We note that the current four wards, electing a total of 12 councillors, do meet the requirement for fair representation for electors.

Communities and community boards

60. 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.
61. The particular matters the territorial authority, and where appropriate the Commission, 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. Section 19W also requires regard to be given to such of the criteria as apply to reorganisation proposals under the Local Government Act 2002 as is considered appropriate. The Commission sees two of these criteria as particularly relevant for the consideration of proposals relating to community boards as part of a representation review:
 - Will a community board have an area that is appropriate for the efficient and effective performance of its role?
 - Will the community contain a sufficiently distinct community of interest or sufficiently distinct communities of interest?
62. There have been no community boards in Napier City since its constitution in 1989 and the council is not proposing that any be established.
63. The council did raise the issue of possible establishment of community boards in the preliminary consultation survey and also in a subsequent survey on engagement with the council. These surveys showed some support for community boards, particularly in Maraenui (in Nelson Park Ward) and Bayview (in Ahuriri Ward), but this was not sufficient to persuade the council to include provision for one or more community boards in its initial representation proposal.
64. Suggestions of establishment of community boards in Maraenui and Bayview, was in line with the above mentioned officers' report which identified these two suburbs as having the most distinct communities of interest in the city within wider ward areas. As noted in paragraph 41 above, Nelson Park Ward residents are also identified as being the least engaged in local democracy and as having the highest deprivation levels which can be a barrier to engagement. In these circumstances we believe further consideration of a community board for an area like Maraenui in particular would be appropriate.
65. However, we note that only 5 per cent of submitters on the council's initial proposal wanted community boards compared to 41 per cent who did not, and 54 per cent who did not comment either way. Given this current low level of support, we endorse the council's final proposal that no community boards be established for the 2019 local elections.
66. As noted above, we recommend the council gives particular attention in its next review to whether the current four-ward structure will continue to provide effective representation for identified communities of interest into the future. As part of this focussed attention, we also recommend that the council considers further the option of one or more community boards as part of any revised ward structure.

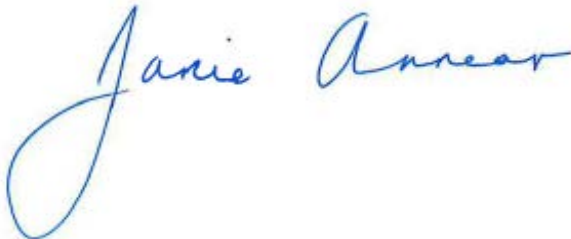
Commission's determination

67. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Napier City Council to be held on 12 October 2019, the following representation arrangements will apply:
- (1) Napier City, as delineated on SO Plan 9830 deposited with Land Information New Zealand, will be divided into four wards.
 - (2) Those four wards will be:
 - (a) Ahuriri Ward, comprising the area delineated on SO Plan 386665 deposited with Land Information New Zealand
 - (b) Onekawa-Tamatea Ward, comprising the area delineated on SO Plan 386668 deposited with Land Information New Zealand
 - (c) Nelson Park Ward, comprising the area delineated on SO Plan 386667 deposited with Land Information New Zealand
 - (d) Taradale Ward comprising the area delineated on SO Plan 386666 deposited with Land Information New Zealand.
 - (3) The Council will comprise the mayor and 12 councillors elected as follows:
 - (a) 2 councillors elected by the electors of Ahuriri Ward
 - (b) 2 councillors elected by the electors of Onekawa-Tamatea Ward
 - (c) 4 councillors elected by the electors of Nelson Park Ward
 - (d) 4 councillors elected by the electors of Taradale Ward.
68. 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

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Commissioner Pita Paraone (Chair)

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Commissioner Janie Annear

A handwritten signature in black ink, appearing to read 'B. J. Duffy', with a large, stylized initial 'B'.

Commissioner Brendan Duffy

17 January 2019