



LOCAL GOVERNMENT COMMISSION
MANA KĀWANATANGA Ā ROHE

Determination

on a decision of the Kapiti Coast District Council to adopt representation arrangements for the local authority elections to be held on 8 October 2016 that do not comply with section 19V(2) of the Local Electoral Act 2001

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 Kapiti Coast District Council (the council) last reviewed its representation arrangements prior to the 2010 local authority elections. Accordingly it was required to undertake a review prior to the next elections in October 2016.
4. The representation arrangements that applied for the council in 2010 and subsequent 2013 elections, comprised a mayor and 10 councillors, five of whom were elected at large and five elected from wards 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
Ōtaki	9,690	1	9,690	-528	-5.17
Waikanae	11,100	1	11,100	+882	+8.63
Paraparaumu	20,100	2	10,050	-168	-1.64
Paekākāriki-Raumati	10,200	1	10,200	-18	-0.18
TOTALS	51,090	5	10,218		

*These figures are updated 2014 population estimates.

5. In addition, Kapiti Coast District has four community boards for Ōtaki, Waikanae, Paraparaumu-Raumati and Paekākāriki, each comprising four elected members with the ward councillor(s) also appointed to each board.
6. On 18 June 2015 the council, under sections 19H and 19J of the Act, resolved its initial proposed representation arrangements to apply for the 2016 elections. The proposal was for the retention of existing arrangements i.e. for the council to continue to comprise a mayor and 10 councillors with five elected at large and five elected from the current four wards subject to a boundary alteration between the Waikanae and Ōtaki wards. The proposal was also for the retention of the existing four community boards with existing representation arrangements.
7. The initial proposal resulted in the following arrangements for the election of the five ward councillors.

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
Ōtaki	8,470	1	8,470	-1,744	-17.07
Waikanae	12,300	1	12,300	+2,086	+20.42
Paraparaumu	20,100	2	10,050	-164	-1.61
Paekākāriki-Raumati	10,200	1	10,200	-14	-0.14
TOTALS	51,070	5	10,214		

8. The boundary alteration between the Waikanae and Ōtaki wards involved the transfer of a large mainly rural area from Ōtaki Ward to Waikanae Ward and had the effect of returning the ward boundary to its pre-2004 position. The boundary had been moved in 2004 in order to comply with the '+/-10% fair representation requirement' as set out in section 19V of the Act. With the enactment of amending legislation providing more flexibility in the application of the +/-10% requirement, the council was now proposing to return the boundary to its previous position.
9. The council notified its proposal on 25 June 2015 and at the same time noted that the Waikanae and Ōtaki wards did not comply with the fair representation requirement of section 19V of the Act. The council stated it considered that compliance "would limit effective representation of communities of interest by dividing a community of interest between wards".
10. A total of 10 submissions were received on the council's initial proposal by the closing date of 31 July 2015. Eight submissions supported the initial proposal and two sought detailed amendments. One of these sought the inclusion of a further meshblock, covering the Waikanae Downs area, in Waikanae Ward (from Paraparaumu Ward).
11. Following consideration of the submissions, the council on 27 August 2015 resolved to adopt its initial proposal as its final representation proposal subject to the inclusion of the Waikanae Downs area in Waikanae Ward and also Waikanae community board area. This involved the transfer approximately 150 additional people from Paraparaumu Ward to Waikanae Ward.
12. The Council notified its final proposal on 3 September 2015 and sought any appeals or objections by 5 October 2015.

13. No appeals or objections were received against the council's final proposal.
14. The council, however, was required to refer its proposal to the Commission, pursuant to subsection 19V(4) of the Act, as two of its proposed wards (Waikanae and Ōtaki) did not comply with the fair representation requirement of subsection (2).

Legislative requirements

15. Subsection 19V(1) of the Act sets out the requirement for local authorities, and where appropriate the Commission, in determining the number of members to be elected from any ward, to ensure electors receive fair representation. Fair representation is to be determined having regard to the population of the district and of each ward.
16. For the purposes of giving effect to subsection (1), subsection 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 members elected by wards (the '+/-10% fair representation requirement').
17. Subsection 19V(3) provides that, despite subsection (2), if a territorial authority or the Commission considers one or more of certain prescribed conditions apply, wards may be defined and membership distributed between them in a way that does not comply with subsection (2). The prescribed conditions are:
 - (i) non-compliance is required for effective representation of communities of interest within island or isolated communities situated within the district of the territorial authority
 - (ii) compliance would limit effective representation of communities of interest by dividing a community of interest between wards
 - (iii) compliance would limit effective representation of communities of interest by uniting within a ward two or more communities of interest with few commonalities of interest.
18. Subsection 19V(4) requires a territorial authority that decides under subsection (3) not to comply with subsection (2), to refer that decision to the Commission.
19. Subsection 19V(5) requires the Commission to treat a proposal referred to it under subsection (4), as if it were an appeal against the decision of the territorial authority for the purposes of sections 19R (other than subsection 1(b)), 19S and 19Y. Subsection 19(1)(b) provides that the Commission must determine:
 - (a) in the case of a territorial authority that has made a resolution under section 19H, the matters specified in that section (these matters relate to the basis of election for councillors and the number of councillors to be elected) and
 - (b) in the case of a territorial authority that has made a resolution under section 19J, the matters specified in that section (these matters relate to establishment/retention of community boards and the election of board members).
20. Subsection 19V(6) requires the Commission on receiving a proposal referred to it under subsection (4), to determine whether:
 - (a) to uphold the decision of the territorial authority, or
 - (b) to alter that decision.

21. The effect of the above provisions was that the Commission had only to determine whether to uphold or alter Kapiti Coast District Council's decision not to comply with subsection 19V(2) in respect of the proposed Waikanae and Ōtaki wards.

Consideration by the Commission

History of wards and community boards

22. The Waikanae and Ōtaki wards have existed since the Kapiti Coast District was constituted in 1989. Two community boards covering the same two areas as the wards were also established at that time and continue today.
23. In 2004, when the stricter +/-10% fair representation requirement first took effect, the Commission saw it had little choice but to transfer a large rural area from Waikanae Ward to Ōtaki Ward. This area included the Peka Peka area to the north of Waikanae, a rural area to the east, and the Reikorangi area and Akatarawa Road to the south-east. The area also included the northerly extension of Huia Street which began in Waikanae. The community board boundary was also altered to reflect the new ward boundary.
24. In its next review in 2010, the council proposed to alter the Waikanae community board boundary back to its previous pre-2004 position on community of interest grounds. The Commission subsequently endorsed this proposal.
25. There was also an appeal in 2010 from a resident of Huia Street against the location of the Waikanae-Ōtaki ward boundary, on community of interest grounds. Huia Street is a long dead-end road originating in Waikanae township, but which now extends into what was previously rural land north of Waikanae.
26. While the Commission had sympathy for the arguments of the appellant, it was unable to uphold the appeal given the +/-10% requirement. The Commission's determination resulted in the community board boundary and ward boundary no longer coinciding.
27. With the amendment to the Local Electoral Act in 2013 providing more flexibility in the application of the +/-10% requirement, the council was now proposing the return of the ward boundary to its pre-2004 position and so it would again coincide with the community board boundary.

Present communities of interest

28. Waikanae and Ōtaki are reasonably distinct communities of interest, with Waikanae and Ōtaki town centres approximately 15 minutes apart on state highway 1 and separated by a large rural area. The area proposed to be transferred back to Waikanae Ward comprises the areas referred to in paragraph 23. Each is clearly associated with Waikanae as follows:
- Peka Peka is now joined by road to Waikanae Beach and provides a link to state highway 1 from the beach area
 - Reikorangi area is only a few minutes from Waikanae town centre and residents have to drive through this centre to travel north to Ōtaki
 - Residents in the Huia Street extension have to drive into Waikanae town centre to join state highway 1 to travel north to Ōtaki.
29. Both Waikanae and Ōtaki have their own well-established community boards which represent and advocate for their respective communities and administer, under

delegation, specific grants funds. Both areas also have their own council service centre.

30. The council has a number of decentralised services at the ward and/or community board level with Waikanae providing similar types of local services to residents as are available in Ōtaki, such as a library, swimming pool and recycling services. Accordingly there are few reasons for Waikanae residents to regularly travel north to Ōtaki as opposed to, if necessary, travelling south to the council headquarters and also to the larger retail area in Paraparaumu which is closer for Waikanae residents than Ōtaki.
31. The Waikanae and Ōtaki communities are also quite distinct in terms of demographic, socio-economic and ethnic characteristics. For example, areas of Waikanae have markedly higher proportions of the population who are European and in the older age group, while Ōtaki has higher proportions of Māori and areas with higher social deprivation based on the 2013 social deprivation index.
32. The Commission noted the proposed further addition of the Waikanae Downs area to Waikanae Ward and community board area (meshblock 1998404) exacerbated the non-compliance with the +/-10% requirement, albeit only slightly, with approximately 150 people adding a further 1.47% non-compliance (i.e. now +21.89%). Again this appeared justified in terms of physical proximity to Waikanae town centre and in relation to access to local services.
33. This was reflected by a submitter on the council's initial representation proposal from the Waikanae Downs area, who pointed out that he had a Waikanae postal address and was "less than a 2 minute drive from the (Waikanae) village ... where we visit the doctor, cinema, supermarket, post office, plumber, vet, bank, pharmacy, library, restaurants, hardware store, and a host of other local businesses". He added: "we consider ourselves Waikanae locals" while "Paraparaumu is a 10 minute drive away and we certainly do not consider ourselves 'Paraparaumu locals'".

Options for fair and effective representation

34. Given the distinct nature of the Waikanae and Ōtaki communities, the Commission considered there were few options for retaining the two separate wards, other than status quo arrangements, in a way that complied with the +/-10% fair representation requirement.
35. The Commission did have the option of retaining status quo arrangements which did comply with the +/-10% requirement. The council, however, supported by submissions received on its initial proposal, did not consider this provided effective representation for communities of interest given the distinct nature of the two communities. This argument reflected factors identified in the Commission's representation guidelines, including the ability of elected representatives to effectively represent electoral areas.
36. The Commission also noted in relation to effective representation, the requirement set out in section 19T of the Local Electoral Act, for a council, and where appropriate the Commission, to ensure that, so far as is practicable, ward boundaries coincide with community boundaries. This was not the case under status quo arrangements. The coinciding of boundaries is seen as desirable to assist residents' understanding of local government arrangements and thereby encourage their participation in local government affairs including such activities as elections.
37. Another option was to combine the Waikanae and Ōtaki wards. A combined ward with two councillors, would comply with the +/-10% fair representation requirement.

But as the Commission had noted, the two communities have well-established identities, reflected in them both having had their own ward and community board since 1989, and are quite distinct. Given their lack of commonalities, the Commission did not consider this option would provide more effective representation for communities of interest in the area than status quo arrangements.

Conclusion

38. The Commission considered that the proposed extended Waikanae Ward, mirroring the Waikanae community board area with the addition of the Waikanae Downs area, reflected a distinct community of interest warranting councillor representation. Compliance with the section 19V(2) +/-10% fair representation requirement for this ward, and Ōtaki Ward, would require a continuation of the split of the Waikanae community of interest. The Commission agreed this would “limit effective representation of communities of interest by dividing a community of interest between wards”. On this basis non-compliance with subsection 19V(2) is justified.
39. In reaching this conclusion, the Commission did note the proposed non-compliance of Waikanae Ward reflected under-representation for the local community (with Ōtaki relatively over-represented). While this was disadvantageous to Waikanae, the Waikanae Community Board supported the proposal, including the addition of the Waikanae Downs area to Waikanae Ward and community board area.

Commission’s determination

40. Under section 19R of the Local Electoral Act 2001, the Commission upholds the decision of the Kapiti Coast District Council not to comply with the subsection 19V(2) +/-10% fair representation requirement in respect of Waikanae Ward and Ōtaki Ward, as compliance would limit effective representation of communities of interest by dividing a community of interest between wards.
41. Accordingly for the triennial general election of Kapiti Coast District Council to be held on 8 October 2016, in addition to other arrangements determined by the council, there will be:
 - (a) a Waikanae Ward, comprising the area delineated on Plan LG-043-2016-W-3, covering the same area as the current Waikanae community board area with the addition of the Waikanae Downs area (meshblock 1998404), electing one councillor
 - (b) an Ōtaki Ward, comprising the area delineated on Plan LG-043-2016-W-2, covering the same area as the current Ōtaki community board area, electing one councillor.

Next representation review

42. In its consideration of the council’s proposal, the Commission noted that recent development in certain areas adjacent to the Waikanae-Ōtaki boundary, established by the Commission in 1989, did bring into question the ongoing appropriateness of sections of this boundary. It noted in particular that between state highway 1 and the coast, two roads presently in Ōtaki community (Derham Road and Paul Faith Lane) only had access south through Waikanae community, while one further road (Pukenamu Road) crossed this community boundary. As surrounding areas are further developed in future, the appropriateness of this boundary will become more questionable. In addition the impact of the new expressway, now under construction, to replace the existing state highway route, will need to be taken into account.

43. Accordingly the Commission recommends to Kapiti Coast District Council that at its next representation review, it gives particular consideration to the ongoing appropriateness of certain sections of the Waikanae/Ōtaki ward/community boundary.

**REPRESENTATION REVIEWS COMMITTEE
FOR LOCAL GOVERNMENT COMMISSION**

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Commissioner Janie Annear (Chair)

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Temporary Commissioner Leith Comer

A handwritten signature in black ink, appearing to read 'De Kingi', written in a cursive style.

Temporary Commissioner Pauline Kingi

28 January 2016