

## Council Briefing Agenda

**Date:** Thursday, 4 March, 2021

**Time:** 9:30 am

**Location:** Council Chamber  
Forum North, Rust Avenue  
Whangarei

**Elected Members:** Her Worship the Mayor Sheryl Mai  
(Chairperson)

Cr Gavin Benney

Cr Vince Cocurullo

Cr Nicholas Connop

Cr Ken Couper

Cr Tricia Cutforth

Cr Shelley Deeming

Cr Jayne Golightly

Cr Phil Halse

Cr Greg Innes

Cr Greg Martin

Cr Anna Murphy

Cr Carol Peters

Cr Simon Reid

For any queries regarding this meeting please contact  
the Whangarei District Council on (09) 430-4200.

**1. Apologies**

**2. Reports**

2.1. Representation Review 2021

1

**3. Closure of Meeting**

# Representation Review 2021

**Meeting:** Council Briefing

**Date of meeting:** 4 March 2021

**Reporting officer:** Nicolene Pestana (Team Leader Democracy)  
 Dale Ofsoske, Electoral Officer, Election Services Ltd

## 1 Purpose

To provide information on the representation review process, timetable and preliminary consultation.

## 2 Background

The Local Electoral Act 2001 (LEA) requires local authorities to undertake a review of their representation arrangements at least once every six years. Council last reviewed its representation arrangements in 2018 which took effect for the 2019 and 2022 triennial elections. This review adjusted some of the ward boundaries and retained the 13 councillors elected from six wards, plus the Mayor elected at large. No community boards were established.

In 2012 Te Kārearea Strategic Partnership Forum was formed between Te Huinga (as advocates of the hapū of Whangarei) and Council as a first step in ‘developing more robust partnership arrangements over time’. In September 2020 Council established Te Kārearea as a Standing Committee of Council, adopting Terms of Reference that gave the Committee responsibility for:

*“Recommendations on ways to develop Māori capacity to contribute to decision making processes [and] Maori Representation (i.e. under the Local Electoral Act)”.*

At its inaugural meeting in October 2020 Te Kārearea “recommended that Council consider introducing Māori representation for the 2022 and 2025 Local Government Elections through the establishment of Māori ward(s)”.

On 3 November 2020 Council resolved to establish Māori wards for the 2022 and 2025 triennial elections, necessitating a review of the representation arrangements in 2021, with the outcome to apply for the 2022 and 2025 triennial elections.

In this briefing Council’s Electoral Officer will work through the process and timeframes for the review of the representation arrangements. Given the longstanding partnership through Te Kārearea, and the responsibilities assigned to the Te Kārearea Strategic Partnership Standing Committee under its Terms of Reference, this will be a joint session with Te Kārearea members. A further Marae based hui will be held on 17 March 2021.

## 3 Discussion

Representation reviews determine the representation arrangements for the district of a territorial authority.

During the review, Council must consider:

- Communities of interest
- Effective Representation
- Fair Representation

The Local Government Commission (LGC) has published guidance for local authorities to consider when undertaking a representation review. This guidance is available at <http://www.lgc.govt.nz/representation-reviews/> and can be found at **Attachment A**.

### 3.1 Statutory provisions

#### Local Electoral Act 2001

The requirements relating to representation reviews are contained in sections 19A to 19Y of Part 1A, Local Electoral Act 2001 (LEA). These sections cover:

- Representation arrangements
- Representation reviews
- Procedural steps and timelines

When establishing Māori wards, the provisions of Schedule 1A substitute the Part 1A provisions, as required.

In addition to the specific requirements of Part 1A and Schedule 1A LEA, territorial authorities must also bear in mind other relevant provisions of the LEA, including the purpose of the Act (to allow diversity, through local decision-making) and the principles specified in section (1) LEA as follows:

- *Representative and substantive electoral participation in local elections and polls*
- *Fair and effective representation for individuals and communities*
- *Reasonable and equal opportunities to vote and nominate, or be nominated as candidates*
- *Public confidence in, and public understanding of, local electoral processes.*

### 3.2 Communities of interest

The term “community of interest” is not defined in legislation. It is a subjective term, meaning different things to different people, depending on an individual’s or group’s perspective from time to time.

The LGC views a community of interest as an area to which “*one feels a sense of belonging and to which one looks for social, cultural, service and economic support contributing to the development of a shared identity.*”

In previous reviews, the LGC has identified the defining characteristics of a community of interest, including the following:

- A sense of community identity and belonging;
- Similarities in the demographic, socio-economic and/or ethnic characteristics of the residents of a community;
- Similarity in economic activities;
- Dependence on shared facilities in an area, including schools, recreational and cultural facilities and retail outlets;
- Physical, geographic and topographical features;
- The history of an area;
- Transport and communication links; and
- The rohe or takiwa area of tangata whenua.

As communities of interest may alter over time, Council must carefully consider and identify communities of interest within the district when undertaking representation reviews.

### 3.3 Effective representation

The LEA states that between 5 and 29 councillors can represent the district of a territorial authority. When considering the number of councillors to effectively represent the district, Council must be mindful of the physical size of the district, the number of communities of interest and the need to meet the operational workload requirements of both the Council and individual councillors in attending Council and committee meetings and engaging with the community.

In reviewing effective representation, Council must consider the following:

- Total number of councillors.
- Should the district be divided into wards? Do the current wards and number of councillors in each ward provide for effective representation of communities of interest?
- Should general councillors (elected by all electors of the district whose names appear on the general electoral roll) be elected 'at large' (district-wide) or from wards or from a mix of 'at large' and wards?
- How does the establishment of Māori wards (councillors elected from electors of the district whose names appear on the Māori electoral roll) impact representation of the district?
- The proposed number of councillors to be elected in each category (at large/ward/mixture – if applicable).
- The proposed name and boundaries for each ward.
- Should there be communities and community boards, and if so, the nature of communities and structure of community boards?
- How many members should make up a community board and how many of these are elected and how many appointed?
- Whether members of a community board are to be elected by electors of a community as a whole, or by electors of two or more subdivisions?
- The names, boundaries and number of members of each subdivision of a community (if adopted).

### 3.4 Fair representation (+/- 10% rule)

Fair representation is defined as a democratic model with the following characteristics:

- there is a reasonable ratio of councillors per head of population;
- there is assurance that councillors are in reasonable geographic proximity to the community for easy contact; and
- there is sufficient opportunity for representation and involvement of communities.

Once communities of interest and effective representation have been established, Council must apply the principles of fair representation and ensure the +/- 10% rule is met, if practicable.

The +/- 10% rule requires that the population of each ward (if applicable) divided by the number of councillors to be elected by that ward must not exceed +/- 10% of the population of the district divided by the total number of councillors.

There is some room for exemption from the +/- 10% rule (splitting communities of interest, isolation etc) but should the +/- 10% rule not comply, the review process must be forwarded to the LGC for their determination.

### 3.5 Calculating the number of members

The process for determining the number of members to be elected from both Māori and general wards is set out in clauses 2 and 4, Schedule 1A, LEA which prescribes a set formula:  $nmm = mepd / (mepd + gepd) \times nm$

- nmm is the number of Māori members
- mepd is the Māori electoral population of the district (a calculation based on the number of electoral on the Māori electoral roll and proportions of those of Māori descent not registered and under the age of 18 years of age)
- gepd is the general electoral population of the district (the total ordinarily resident population less the Māori electoral population)
- nm is the proposed number of members of the territorial authority (other than the Mayor)

As at June 2020 (the latest population estimates supplied by Statistics New Zealand), the mepd is 18,800 and the gepd is 79,600.

Options for calculating the number of members is contained the presentation for this briefing.

### 3.6 Implementation timetable

The LEA prescribes the process that councils are required to followed when undertaking a representation arrangements review.

Key indicative dates, with legal requirements and dates for Council are as follows:

Date	Process task	Legal requirement	Last legal date
13 October 2020	Council Briefing - establishment of Māori wards		
29 October 2020	Te Kārearea Briefing – Elections 2022 – Māori representation		
29 October 2020	Te Kārearea Strategic Partnership Standing Committee recommendation to Council to consider introducing Māori representation for the 2022 and 2025 Local Government Elections through the establishment of Māori ward(s)".		
3 November 2020	Council decision on establishment of Māori wards	Section 19Z LEA	23 November 2020
4 November 2020	Public notice of Council decision on establishment of Māori wards	Section 19ZA, LEA	30 November 2020
4 March 2021	Council Briefing - representation review		

	process and considerations		
17 March 2021	Te Kārearea Briefing - representation review process and considerations		
1 April 2021	Council Briefing - considering various scenarios		
1 April 2021 – 31 May 2021	Informal preliminary public consultation		
21 April 2021	Te Kārearea Briefing - considering various scenarios		
19 May 2021	Te Kārearea Briefing - provide details on options and receive recommendations for initial proposal		
1 June 2021	Council Briefing - present feedback from informal preliminary consultation, provide detail on options and seek preferred option for initial proposal		
24 June 2021	Council Meeting - resolve initial proposal	Sections 19H,19I, 19J,19K,19T,19V,19W LEA Clauses 1 and 3 of schedule 1A LEA	31 August 2021
30 June 2021	Public notice of initial proposal and invite submissions.	Section 19M LEA	8 September 2021
30 June 2021 - 30 July 2021	Submission period	Section 19M(3) LEA	8 October 2021
2 August 2021 - 6 August 2021	Collate submissions and advise submitters of hearing dates		
16 - 17 August 2021	Public hearings of submissions	Section 19M(3) LEA	
31 August 2021	Council Meeting - deliberation on submissions / final proposal indication		
7 September 2021	Council Meeting – resolve final proposal	Section 19N LEA	

Friday 10 September 2021	Public notice of final proposal	Section 19N LEA	19 November 2021
10 September - 11 October 2021	Public appeal / objection period	Section 19O, 19P LEA	20 December 2021
20 October 2021	Public notice - basis of election (if no appeals/objections received)	Section 19Y, 19Q LEA	
November 2021	Forward material to LGC, if required	Section 19Q LEA	15 January 2022
By 10 April 2022	Determination by LGC	Section 19R LEA	
By 11 May 2022	Appeal to High Court (on process only)	(Schedule 5, Clause 4 LGA 2002)	

### 3.7 Informal preliminary public consultation

It is recommended that Council undertakes informal preliminary public consultation on its representation arrangements. Informal preliminary public consultation will take place from 1 April 2021 to 31 May 2021. The format of this informal preliminary public consultation is currently being worked through by relevant staff.

The Te Kārearea Strategic Partnership Standing Committee will be briefed throughout the process to obtain their feedback and recommendations on the process, especially around the Māori wards.

Feedback obtained from the informal preliminary public consultation and the Te Kārearea Strategic Partnership Standing Committee will be provided to Council to assist in their determination of an initial proposal.

## 4 Attachments

Attachment 1: Local Government Commission guidelines



# Local Government Commission

Mana Kāwanatanga ā Rohe

## Guidelines for local authorities undertaking representation reviews

6th Edition  
June 2017



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# **Guidelines for Local Authorities Undertaking Representation Reviews**

Local Government Commission  
Mana Kāwanatanga ā Rohe  
Wellington

June 2017 (6th edition)

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## Chapter 1: Introduction

1.1 These are the sixth representation review guidelines issued by the Local Government Commission in accordance with section 19ZI of the *Local Electoral Act 2001*. They replace the guidelines issued in October 2014.

1.2 Section 19ZI of the *Local Electoral Act 2001* states:

- (1) The Commission must issue guidelines identifying factors and considerations for territorial authorities or regional councils to take into account in making their determinations under any of the provisions of sections 19H to 19JB and Schedule 1A.

1.3 The next local authority elections will be held in October 2019. These guidelines are provided to assist local authorities carrying out their representation reviews for these elections.

1.4 The guidelines also provide guidance on the processes in sections 19JA and 19JB that permit local authorities to make minor changes to the boundaries of electoral areas when not undertaking representation reviews.

### What are representation reviews?

1.5 Representation reviews are reviews of the representation arrangements for a local authority (*Local Electoral Act 2001*).

1.6 Local authorities' representation reviews determine detailed arrangements for:

- the number of electoral subdivisions (if any), and
- their boundaries, names, and number of members.

1.7 For territorial authorities, the representation review also includes deciding the:

- basis of election (at large, wards, or a mix of both), and
- establishment of community boards.

1.8 Local authorities are required to carry out a representation review at least every six years. They may undertake a review sooner than six years if they choose.

### Related processes

1.9 In addition to the above representation arrangements, local authorities and communities have the opportunity to consider the:

- electoral system to be used for their elections (first past the post (FPP) or single transferable vote (STV)), and
- establishment of Māori wards/constituencies.

- 1.10 These processes are not formally part of representation reviews, and are matters for local discretion with no right of appeal to the Commission. However, these options relate to identifying appropriate representation arrangements for a district/region, and need to be resolved before the detailed ward/constituency arrangements are determined.

## These guidelines

- 1.11 These guidelines cover the:
- statutory provisions
  - electoral system and Māori wards/constituencies (covered first, as they are usually carried out before the representation review)
  - the representation review processes (generally covered in the order they are carried out)
  - related processes – minor boundary alterations and Auckland Council requirements.
- 1.12 Terms used in these guidelines have the following interpretations:
- **election** – the triennial local authority elections
  - **election year** – the calendar year in which a triennial local authority election takes place
  - **district** – the geographic area of a territorial authority (applies whether it is a city or district council)
  - **section** (abbreviation ‘s’) – legislative sections referred to in these guidelines refer to the *Local Electoral Act 2001*, unless stated otherwise.
- 1.13 See [Appendix B: Timelines diagram](#) for an overview of the time requirements leading up to a round of local government elections.

## The Commission’s role

- 1.14 The Commission is not involved in developing initial or final local authority representation proposals, other than providing procedural or technical advice when requested.
- 1.15 The local authority must refer its proposal to the Commission if the final proposal:
- has appeals and/or objections made against the final proposal, or
  - does not comply with the requirements for achieving fair representation in section 19V(2).
- 1.16 In these situations the Commission must determine the representation arrangements for the local authority, including any constituent community boards, for the upcoming local authority election (s19R).

- 1.17 The Commission's process for determining representation arrangements in these situations is outlined in [Chapter 11: Appeals, objections, and referrals](#) on page 466.
- 1.18 The Commission also has a role in determining whether to uphold minor boundary adjustments made under ss19JA and 19JB. See *Chapter 13: Minor boundary alterations*.
- 1.19 Commission determinations may be:
- appealed only on a point of law
  - subject to judicial review regarding matters of process.

## Are the guidelines legally binding?

- 1.20 The statutory requirements described in these guidelines are binding on both local authorities and the Commission itself in the exercise of its powers on objections, appeals and referrals. The other content in these guidelines describes recommended practice for the review process.

## Supplementary information

- 1.21 The Commission:
- will consider issuing supplementary guidelines if there is an identified need for further information
  - may provide further technical information relating to representation reviews or representation issues from time to time.

## Feedback and review

- 1.22 These guidelines are reviewed after each round of local authority elections. Feedback from local authorities on the guidelines and on Commission procedures is welcomed and will be considered. Send feedback to the Local Government Commission (contact details below).

## Providing advice

- 1.23 The Commission can provide advice to councils and answer queries regarding representation reviews or other matters raised in these guidelines (see below).

## Contact details

The contact details for the Local Government Commission are:

Telephone: (04) 494 0552  
Email: [info@lgc.govt.nz](mailto:info@lgc.govt.nz)  
Postal address: PO Box 5362  
Wellington 6140

All contact details in these guidelines are also listed in [Appendix A: Contacts](#).

## Chapter 2: Statutory provisions

### Requirement to carry out a review

- 2.1 The local authorities that must carry out a representation review before the 2019 elections are those:
- that didn't carry out a representation review leading up to the 2016 elections (s19H(2) and s19I(2))
  - that are establishing Māori wards/constituencies for the first time for the 2019 local authority elections (cl 1(1), Schedule 1A). See [Chapter 4: Māori wards & constituencies](#) for more information.
- 2.2 In addition the following are specifically required to carry out a review before the 2019 elections:
- the Auckland Council which is required to determine its first review no later than 8 September 2018 (s103(1), Local Government (Auckland Council) Act 2009)
  - Environment Canterbury which is required to carry out a review prior to the 2019 elections (s30(2), Environment Canterbury (Transitional Governance Arrangements) Act 2016).
- 2.3 Local authorities that carried out a representation review leading up to the 2016 local elections are not required to undertake a review before the 2019 local elections, but may do so, if they choose.

### Statutory provisions from Part 1A

- 2.4 This section covers the statutory provisions from Part 1A Representation arrangements for elections of territorial authorities, regional councils, local boards, and community boards.
- 2.5 The requirements relating to local authorities' representation reviews are contained in sections 19A to 19Y of Part 1A of the *Local Electoral Act 2001*. These cover:
- representation arrangements
  - representation reviews
  - procedural steps and timelines.

### Representation arrangements

- 2.6 The following provisions relate to representation arrangements for territorial authorities, regional councils and community boards:
- section 19A – membership of territorial authorities
  - section 19B – basis of election of mayor of territorial authorities

- section 19C – basis of election of members of territorial authorities
- section 19D – membership of regional councils
- section 19E – basis of election of members of regional councils
- section 19F – membership of community boards
- section 19G – basis of election of members of community boards.

## Review of representation arrangements

2.7 The following provisions relate to representation reviews:

- section 19H – review of representation arrangements for elections of territorial authorities
- section 19I – review of representation arrangements for elections of regional councils
- section 19J – review of community boards
- section 19T – requirement for effective representation and other factors in determination of membership and basis of election of territorial authorities
- section 19U – requirement for effective representation and other factors in determination of membership and basis of election of regional councils
- section 19V – requirement for fair representation and other factors in determination of membership for wards, constituencies, and subdivisions
- section 19W – factors in determination of matters in relation to community boards.

2.8 If Māori wards/constituencies are to apply to a local authority election, then the provisions of Schedule 1A of the *Local Electoral Act 2001* also apply. Those provisions substitute the Part 1A provisions as required to provide for the Māori wards/constituencies.

2.9 Matters for local authorities to take into account when formulating proposals for Māori wards/constituencies are outlined in [Chapter 4: Māori wards & constituencies](#).

## Procedural steps

2.10 The following provisions set out procedural requirements relating to representation reviews and associated timelines:

- section 19K – requirements for resolution
- section 19L – distribution of copies of resolution
- section 19M – public notice of proposals, and responsibilities in relation to submissions
- section 19N – response to submissions
- section 19O – appeals
- section 19P – objections
- section 19Q – obligation to forward appeals and objections to Commission

- section 19R – Commission to determine appeals and objections
- section 19S – determination of Commission
- section 19X – certificate of Government Statistician
- section 19Y – when determinations take effect.

## Timelines

- 2.11 In the past some local authorities have worked close to the statutory deadlines. In doing so they limited their ability to deal with any unexpected issues that may have arisen, and potentially created problems for themselves later in the process.
- 2.12 The Commission encourages all local authorities to get the planning for their reviews underway as early in the relevant triennium as possible, and to set internal deadlines that enable the local authority sufficient flexibility to respond to issues that may arise during the process, while also ensuring the local authority can meet the statutory deadlines.
- 2.13 Section 19K(1AA) provides that a formal resolution of initial proposals must not be made before 1 March in the year before the next election. This enables account to be taken of any demand for an electoral system poll or separate Māori representation poll. However this does not preclude local authorities from undertaking preliminary consideration, planning, and consultation well before the 1 March date.

2.14 In general, the representation review process involves the following steps:

**Table 1: Representation review timelines**

Procedure	Deadline	Relevant section
Local authority determines proposed representation arrangements	Initial proposals must be made: <ul style="list-style-type: none"> <li>no earlier than 1 March in the year before election year</li> <li>by 31 August in the year before election year, if establishing Māori wards/constituencies</li> <li>in any other case, in time for the deadline for public notice (i.e. by 7 September)</li> </ul>	<ul style="list-style-type: none"> <li>19H (territorial authorities)</li> <li>19I (regional councils)</li> <li>19J (community boards)</li> <li>Schedule 1A for Māori wards or constituencies</li> </ul>
Local authority gives public notice of "initial" proposal and invites submissions	Within 14 days of resolution, and not later than 8 September in the year before election year	19M(1)
Submissions close	Not less than one month after public notice	19M(2)(d)
If no submissions then proposal becomes final <sup>1</sup>	Public notice to be given when there are no submissions but no date fixed for doing this	19Y(1)
Local authority considers submissions and may make resolution to amend proposal	Within 6 weeks of closing date for submissions	19N(1)(a)
Local authority gives public notice of its "final" proposal	Within 6 weeks of closing date for submissions	19N(1)(b)
Appeals and objections close	Must be lodged: <ul style="list-style-type: none"> <li>not less than 1 month after the date of the public notice issued under section 19N(1)(b)</li> <li>not later than 20 December in the year before election year</li> </ul>	19O 19P
If no appeals or objections then proposal becomes final <sup>1</sup>	Public notice to be given when there are no appeals/objections, but no date fixed for doing this	19Y(1)
Local authority forwards appeals, objections and other relevant information to the Commission <sup>2</sup>	As soon as practicable, but not later than 15 January in election year	19Q 19V(4)
Commission considers resolutions, submissions, appeals and objections and makes determination	Before 11 April in election year	19R
Determination subject to appeal to High Court on a point of law <sup>3</sup>	Appeals to be lodged within 1 month of determination	Clause 2, Schedule 5, <i>Local Government Act 2002</i>

<sup>1</sup> Under section 19V(4) proposals that do not comply with the +/-10% fair representation requirement are subject to confirmation by the Commission.

<sup>2</sup> Includes any proposal that does not comply with the +/-10% fair representation requirement.

<sup>3</sup> Commission determinations may also be subject to judicial review.

## Other relevant statutory provisions

- 2.15 In addition to the specific requirements of Part 1A of the *Local Electoral Act 2001*, local authorities preparing for and carrying out representation reviews need to bear in mind other relevant provisions of that Act and the *Local Government Act 2002*. These are described below.

### *Local Electoral Act 2001*

- 2.16 Section 3(c) provides that the purpose of the Act is to allow diversity, through local decision-making, in relation to:

(ia) the regular review of representation arrangements for local authorities

- 2.17 Section 4(2) requires local authorities:

... in making decisions under this Act or any other enactment, [to] take into account those principles specified in subsection (1) that are applicable (if any), so far as is practicable in the circumstances.

- 2.18 In summary, the principles in subsection (1) are:

- fair and effective representation for individuals and communities
- reasonable and equal opportunities to:
  - vote
  - nominate, or be nominated as, candidates
- public confidence in, and public understanding of local electoral processes.

### *Local Government Act 2002*

- 2.19 It is also necessary for local authorities to consider the purpose and principles of local government and the consultation and decision-making requirements set out in the *Local Government Act 2002* when undertaking their review of representation arrangements.

- 2.20 Section 3 of the *Local Government Act 2002* provides that:

The purpose of this Act is to provide for democratic and effective local government that recognises the diversity of New Zealand communities;

2.21 Section 10 (1) provides that the purpose of local government is:

- (a) to enable democratic local decision-making and action by, and on behalf of, communities; and
- (b) to meet the current and future needs of communities for good-quality local infrastructure, local public service, and performance of regulatory functions in a way that is most cost-effective for households and businesses.

2.22 Section 13 provides that sections 10 (Purpose of local government) and 12(2) (Status and powers):

...apply to a local authority performing a function under another enactment to the extent that the application of those provisions is not inconsistent with the other enactment.

2.23 Section 14 (1) sets out principles for local authorities. These include the following provisions that a local authority must act in accordance with when performing its role (which includes performing the duties and exercising the rights conferred on it by any other enactment):

- (b) local authority should make itself aware of, and should have regard to, the views of all of its communities; and
- (c) when making a decision, a local authority should take account of—
  - (i) the diversity of the community, and the community's interests, within its district or region; and
  - (ii) the interests of future as well as current communities; and
  - (iii) the likely impact of any decision on the interests referred to in subparagraphs (i) and (ii):
- (d) a local authority should provide opportunities for Māori to contribute to its decision-making processes.

2.24 Sections 77, 78 and 81 set out requirements for local authorities when making decisions including contributions to decision-making by Māori, and section 82 sets out principles of consultation. Subsection 76(1) provides that every decision must be in accordance with these sections (that is, sections 77 to 82) and subsection 76(5) applies these requirements to decisions made under other enactments to the extent they are not inconsistent with the other enactment.

2.25 Consultation requirements are covered in [Chapter 8: Consultation](#).

- 2.26 Section 19W of the *Local Electoral Act 2001* sets out provisions relating to reviews of community boards. It provides that a local authority in undertaking a review under section 19J, or the Commission in determining a local authority's community board arrangements, must have regard to the criteria for reorganisation proposals specified in the *Local Government Act 2002*, as considered appropriate in the circumstances.
- 2.27 The general role of community boards is set out in section 52 of the *Local Government Act 2002*. The role of particular community boards is significantly determined by the matters referred or responsibilities that are delegated to boards by the parent territorial authority under section 52(b) and (f).

### Relationship of *Local Government Act 2002* and *Local Electoral Act 2001*

- 2.28 The provisions of the *Local Government Act 2002* described above apply to local authorities making decisions under the *Local Electoral Act 2001*, including representation reviews, if they are not inconsistent with the *Local Electoral Act 2001*.
- 2.29 Specific provisions of the *Local Electoral Act 2001* reflect the philosophy of the *Local Government Act 2002*, which recognises the diversity of New Zealand communities. These provisions provide local choice in respect of:
- the electoral system to be used
  - the establishment of Māori wards or constituencies
  - representation arrangements (subject to appeal/objection/referral to the Local Government Commission), including:
    - the number of members of the elected body (within a prescribed range)
    - and for territorial authorities:
      - the basis of election – at large, wards, or a mix of both
      - the establishment of community boards.
- 2.30 In both the *Local Electoral Act 2001* and the *Local Government Act 2002*, the word 'community' is used in two different senses:
- a community constituted under Schedule 6 of the *Local Government Act 2002* and relating to a community board, or
  - a broader community of interest within the district/region.
- 2.31 Section 5 of the *Local Government Act 2002* provides that, with specified exceptions, the term 'community' (and by cross-reference the *Local Electoral Act 2001*) refers to a community board area. However, 'community' is used in the wider sense in the provisions referred to in paragraphs 2.17 to 2.20 (from Part 2 of the *Local Government Act 2002*).

## Chapter 3: Choosing an electoral system

### Introduction

- 3.1 The *Local Electoral Act 2001* provides for local authorities and their communities to choose either of the following as their electoral system for local elections:
- first past the post (FPP) or,
  - single transferable vote (STV).
- 3.2 A territorial authority's chosen electoral system also applies to the election of members of any community boards.
- 3.3 A change of electoral system can be achieved by:
- local authority resolution, or
  - favourable outcome of a poll of electors. This poll may be:
    - demanded by electors, or
    - the result of a local authority resolution.
- 3.4 The statutory provisions for changing the electoral system are set out in sections 27 to 34 of the *Local Electoral Act 2001*.

### Key statutory provisions for changing electoral systems

- 3.5 The relevant provisions of the *Local Electoral Act 2001* for changing a local authority's electoral system are:

Who	Provision	Timing	Section
local authority	may resolve to change the electoral system to take effect for the next two elections	no later than 12 September two years before election year	27
local authority	must give public notice of the right for electors to demand an electoral system poll, and that notice must include a statement that a poll is required to countermand any local authority resolution made on the electoral system	by 19 September two years before election year	28
5% of electors	may demand a poll on a proposal that a specified electoral system be used at the election of a local authority	at any time	29
a local authority	may resolve to hold an electoral system poll	no later than 21 February the year before election year	31

- 3.6 Also, if either:
- a valid demand for a poll is received (s29) before 21 February in the year before election year, or
  - a local authority resolves to hold a poll (s31),
- then the:
- electoral officer is notified
  - poll must be held not later than 89 days after the notification, that is not later than 21 May in that year, and
  - result of the poll takes effect for the next two elections (s33).
- 3.7 Section 30 states that when a valid demand for a poll is received after 21 February in the year before election year, the:
- poll must be held after 21 May in that year and
  - result takes effect for the next but one election and the subsequent election.
- 3.8 Section 32 states that sections 27 to 31 do not apply if the result of a poll:
- took effect at the previous election, or
  - takes effect at the next election.

## General

- 3.9 The choice of electoral system is not formally part of representation reviews, and the Commission's role in appeals and objections does not apply. However, the electoral system needs to be considered during a representation review.
- 3.10 Five to seven members is preferable for wards or constituencies using STV (the absolute minimum is three) to gain the full benefits of proportional representation under STV.
- 3.11 So that it can be taken into account during these processes, choosing an electoral system occurs before:
- the representation review
  - decisions on establishment of Māori wards/constituencies.

## Further information

- 3.12 Further information is also available in the following reports:
- Dr Janine Hayward, The Local Government Electoral Option 2008  
[http://www.dia.govt.nz/Pubforms.nsf/URL/LocalGovernmentElectoralOption2008.pdf/\\$file/LocalGovernmentElectoralOption2008.pdf](http://www.dia.govt.nz/Pubforms.nsf/URL/LocalGovernmentElectoralOption2008.pdf/$file/LocalGovernmentElectoralOption2008.pdf)

A 2014 version of this document is available to SOLGM members as an appendix to Part 4 of the Code of Good Practice for the Management of Local Authority Elections and Polls on [www.solgm.co.nz](http://www.solgm.co.nz)

- STV Taskforce, Choosing Electoral Systems in Local Government in New Zealand (2002)  
[http://www.dia.govt.nz/Pubforms.nsf/URL/STV.pdf/\\$file/STV.pdf](http://www.dia.govt.nz/Pubforms.nsf/URL/STV.pdf/$file/STV.pdf)

## Chapter 4: Māori wards & constituencies

### Introduction

- 4.1 The *Local Electoral Act 2001* provides that Māori wards (territorial authorities) or constituencies (regional councils) may be established. The statutory provisions for establishing Māori wards/constituencies are set out in sections 19Z to 19ZH of the *Local Electoral Act 2001*.
- 4.2 Establishing Māori wards/constituencies can be achieved by a:
  - local authority resolution or
  - favourable outcome of a poll of electors. This poll may be:
    - demanded by electors or
    - the result of a local authority resolution.
- 4.3 A local authority resolution (to establish a Māori ward/constituency, or to hold a poll) or a valid poll demand (by 5% of electors) may be made at any time, but to apply for the next election they must be made within the timeframe described in the *Local Electoral Act 2001* (resolution – s27(1), poll demand – s30(3A)). These timeframes ensure this process follows the choice of electoral system, as the choice of electoral system may influence a decision on the establishment of Māori wards/constituencies, but precedes a representation review.
- 4.4 If the local authority resolves to establish Māori wards/constituencies it must give public notice of this resolution. The public notice must include a statement that a poll is required to countermand the local authority resolution.
- 4.5 If a local authority's district/region is required to be divided into Māori wards/constituencies at the next election, that local authority must undertake a representation review (whether or not it conducted a review before the previous election). A local authority must resolve its initial representation proposals after 21 February in the year before the next election. This is to ensure that the resolution is made after the time for lodging demands for a poll on Māori representation prior to the next election.
- 4.6 The local authority needs to be fully aware of the relevant provisions and possible implications of establishing Māori wards/constituencies for any representation review.
- 4.7 The Commission's role in respect of determination of appeals and objections on representation arrangements:
  - does not extend to whether or not Māori wards/constituencies need to be established

- is limited to consideration of the detailed arrangements for such wards/constituencies such as the number of wards/constituencies, their boundaries, and number of members.

## Key statutory provisions for establishing Māori wards/constituencies

- 4.8 The relevant provisions of the *Local Electoral Act 2001* relating to the establishment of Māori wards/constituencies are:
- a local authority may resolve to establish Māori wards/constituencies and, if made by 23 November two years before the next election, the resolution takes effect for the next election (s19Z)
  - if a local authority makes such a resolution to establish Māori wards/constituencies by 23 November it must give public notice of this fact by 30 November two years before the next election year, including a statement that a poll is required to countermand that resolution (s19ZA)
  - 5% of electors may demand a poll at any time on whether a district/region needs to be divided into one or more Māori wards/constituencies (19ZB)
  - a local authority may resolve at any time to conduct a poll on whether the district/region needs to be divided into Māori wards/constituencies (19ZD)
  - if, before 21 February in the year before election year, either a valid demand for a poll is received (s19ZB) or the local authority resolves to hold a poll (s19ZD) this is notified to the electoral officer and the poll must be held not later than 89 days after the notification, that is, not later than 21 May in that year, and the result of the poll takes effect for the next two elections (s19ZF)
  - if a valid demand for a poll is received after 21 February in the year before the next election, the poll must be held after 21 May in that year and takes effect for the next but one election and the subsequent election (s19ZC)
  - sections 19Z to 19ZD do not apply if the result of a poll took effect at the previous election or takes effect at the next election (s19ZE).
- 4.9 If, as a result of a resolution or poll, Māori wards/constituencies are to apply for an election then a representation review must be carried out (cls1 and 3, Schedule 1A of the *Local Electoral Act 2001*). In such cases the requirements of Part 1A of the *Local Electoral Act 2001* are subject to the provisions of Schedule 1A.

- 4.10 Clauses 1 and 3 of *Schedule 1A* provide that the local authority is required to determine:
- the proposed total number of members of the local authority
  - whether (for territorial authorities only):
    - all members are to be elected from either Māori or general wards, or
    - some members are to be elected from either Māori or general wards, and some are to be elected at large
  - the proposed number of members to be elected from the Māori wards/constituencies and the number from the general wards/constituencies
  - the proposed name and boundaries of each ward/constituency
  - the proposed number of members to be elected from each Māori and general ward/constituency.

## Processes

- 4.11 The processes involved with these steps and the factors and considerations to be taken into account are described below.

### Calculating the number of members

- 4.12 The general and Māori electoral population requirements described below may limit options available to a local authority in terms of the number of elected members from Māori wards/constituencies, including that no members could be elected from such wards/constituencies.
- 4.13 Therefore local authorities need to determine their Māori and general electoral populations at the beginning of determining the range of options for Māori and general wards/constituencies to ensure that any debate occurs in the context of what is possible.
- 4.14 The process for determining the number of members to be elected from both Māori and general wards/constituencies is set out in clauses 2 and 4 of Schedule 1A and involves:
- determining the total number of members of the local authority
  - multiplying the total number of members by the ratio of the Māori electoral population to the total (Māori and general) electoral population.

4.15 For territorial authorities the following formula is applied:

$$nmm = \frac{mepd}{mepd + gepd} \times nm$$

where:

- nmm – number of Māori ward members
- mepd – Māori electoral population of the district
- gepd – general electoral population of the district
- nm – proposed number of members of the territorial authority (other than the mayor).

4.16 For regional councils the following formula is applied:

$$nmm = \frac{mepr}{mepr + gepr} \times nm$$

where:

- nmm – number of Māori constituency members
- mepr – Māori electoral population of the region
- gepr – general electoral population of the region
- nm – proposed number of members of the regional council.

In both cases, fractions are rounded up or down to the nearest whole number.

4.17 Section 3 of the *Electoral Act 1993* contains definitions for “general electoral population” and “Māori electoral population”. Summaries of those definitions are :

- general electoral population – the total ordinarily resident population at the last census less the Māori electoral population.
- Māori electoral population – a calculation based on the number of electors on the Māori electoral roll and proportions of those of Māori descent not registered and those under 18 years of age.

4.18 The Māori electoral population, and the general electoral population, are calculated by Statistics New Zealand and must be provided on request to a local authority by the Government Statistician. These populations (at the regional and district level) can also be found on the Local Government Commission’s website.

4.19 For further information about how the Māori electoral population is calculated search for the following titles on the *Statistics New Zealand* website [www.stats.govt.nz](http://www.stats.govt.nz):

- Statistics New Zealand, ‘The mathematics of electorate allocation in New Zealand based on the outcome of the 2013 Census and the Māori Electoral Option 2013’ (2013)

- Statistics New Zealand, 'Imputation of Māori Descent for Electoral Calculations' (2000).

### Number and boundaries of wards/constituencies

- 4.20 In determining arrangements for Māori wards/constituencies, clause 6 of Schedule 1A requires local authorities to:
- satisfy the requirements of sections 19T and 19U, which require:
    - that the election of members provides effective representation of communities of interest within the district/region
    - conformity with meshblock boundaries
    - to the extent that is practicable, conformity of ward boundaries with community board boundaries, and conformity of constituency boundaries with the boundaries of territorial authority districts or wards.
  - have regard to:
    - the boundaries of any existing Māori parliamentary electoral district
    - communities of interest and tribal affiliation.

### Number of members to be elected by each ward/constituency

- 4.21 Clause 6 of Schedule 1A sets out particular requirements when determining the number of members to be elected by each Māori ward/constituency (where there are two or more wards/constituencies). The local authority is required to ensure that the ratio of members to Māori electoral population in each Māori ward/constituency produces a variance of no more than +/-10% (to the extent that is reasonably practicable and consistent with the above considerations relating to Māori electoral districts, communities of interest, and tribal affiliations).
- 4.22 This may require a judgment to be made in individual cases as to the relative importance to be given to each of these sets of factors when determining the number of members from each Māori ward/constituency. Local authorities need to record in detail the decisions they reach on this issue.
- 4.23 The Commission notes that, where Māori wards/constituencies are established, the '+/-10% rule' for general wards/constituencies is calculated separately using the general electoral population (which excludes the Māori electoral population).

## General

- 4.24 In working through the requirements of Schedule 1A of the *Local Electoral Act 2001*, local authorities need to consider appropriate consultation at an early stage with iwi and hapū over the boundaries of their rohe . This helps determine the appropriate number of Māori wards/constituencies (subject to Māori and general electoral populations) to reflect Māori communities of interest and areas of tribal affiliation.
- 4.25 The legislation does not provide for Māori electoral subdivisions to be constituted for community board or local board areas.

## Chapter 5: Fair and effective representation

### Key considerations

- 5.1 In reviewing their representation arrangements, local authorities must provide for 'effective representation of communities of interest' (ss19T and 19U) and 'fair representation of electors' (s19V). Therefore, there are three key factors for local authorities to carefully consider. They are:
- communities of interest
  - effective representation of communities of interest
  - fair representation of electors.
- 5.2 These inter-related factors are discussed below.

### Communities of interest

#### *Defining communities of interest*

- 5.3 The term 'community of interest' is not defined in the *Local Electoral Act 2001* and may mean different things to different people. Defining local communities of interest is an essential part of the representation review process and needs to be carried out before determining how to provide effective representation.
- 5.4 One definition<sup>4</sup> of 'community of interest' describes it as a three-dimensional concept:
- perceptual – a sense of belonging to a clearly defined area or locality
  - functional – the ability to meet with reasonable economy the community's requirements for comprehensive physical and human services
  - political – the ability of the elected body to represent the interests and reconcile the conflicts of all its members.

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<sup>4</sup> [\*The Concept of Community of Interest\*](#) (1989) prepared by Helen Fulcher for the South Australian Department of Local Government.

- 5.5 The perceptual and functional aspects can be extended to define a community of interest as having:
- a sense of community identity and belonging reinforced by:
    - distinctive physical and topographical features (e.g. mountains, hills, rivers)
    - similarities in economic or social activities carried out in the area
    - similarities in the demographic, socio-economic and/or ethnic characteristics of the residents of a community
    - distinct local history of the area
    - the rohe or takiwā of local iwi and hapū
  - dependence on shared facilities and services in an area, including:
    - schools, recreational and cultural facilities
    - retail outlets, transport and communication links.
- 5.6 Decisions relating to the representation of communities of interest (the political dimension) need to reflect these interests and needs.

### ***Identifying communities of interest***

- 5.7 Communities of interest may alter over time, so local authorities need to make sure they identify their current communities of interest when carrying out a representation review.
- 5.8 Communities of interest can be considered at different levels. For example, local authorities themselves are distinct and identifiable communities of interest.
- 5.9 Regions are assumed to have a number of distinct identifiable communities of interest and therefore are required to be divided into constituencies.
- 5.10 During a representation review territorial authorities need to determine:
- any identifiable communities of interest below the district level
  - whether these communities of interest are located in identifiable geographical areas, justifying the establishment of wards, or are spread across the district.

### **Effective representation of communities of interest**

- 5.11 Territorial authorities must ensure effective representation of communities of interest (s19T).
- 5.12 Regional councils must ensure effective representation of communities of interest (s19U).
- 5.13 Achieving effective representation requires identifying communities of interest that are geographically distinct.

- 5.14 Effective representation must be achieved within the following statutory limits:
- between 5 and 29 members (excluding the mayor) for territorial authorities
  - between 6 and 14 members for regional councils.
- 5.15 Factors to consider include the size, nature, and diversity of the district/region.
- 5.16 The basis of election (at large, by ward, or a combination of both) used by a territorial authority is the one determined by the territorial authority (or Commission, if relevant) to provide the most effective representation of communities of interest.
- 5.17 When practicable, the following factors need to be considered when determining effective representation for the local authority:
- avoiding arrangements that may create barriers to participation, for example, not recognising residents' familiarity and identity with an area during elections
  - not splitting recognised communities of interest between electoral subdivisions
  - not grouping together two or more communities of interest that have few common interests
  - accessibility, size, and configuration of an area, including:
    - the population's reasonable access to its elected members and vice versa
    - the elected members' ability to:
      - effectively represent the views of their electoral area
      - attend public meetings throughout the area, and provide reasonable opportunities for face-to-face meetings.
- 5.18 Where practicable, different types of electoral subdivision boundaries (ward, constituency, community board subdivisions etc.) need to coincide as this:
- supports communities of interest and local electors' identification with their area
  - may encourage participation, such as voting or standing as a candidate.
- 5.19 The legislation is neutral on whether a territorial authority needs to be divided into wards. General characteristics of territorial authorities that have opted for elections at large include:
- the district has a relatively compact geographic area, and/or
  - a shared common community of interest at the district level, and/or
  - communities of interest that are spread across the district rather than being geographically distinct.
- 5.20 When there are a large number of communities of interest, identify any common interests and consider combining the communities of interest into one or more larger wards/constituencies.

- 5.21 Consider the relative merits of one and multi-member wards/constituencies:
- single-member wards/constituencies provide a close direct link between local electors and their representative
  - multi-member wards/constituencies can provide:
    - greater choice for voters
    - following the election, provide greater choice for residents on who to approach on local issues
    - allow sharing and specialising in responsibilities between the ward/constituency representatives.
- 5.22 The local authority also needs to consider the electoral system used when addressing particular configurations of wards/constituencies (for example wards/constituencies of 5 to 7 members are more effective under STV (see paragraph 3.11 on page 13)).
- 5.23 Members of a territorial authority may also be elected partly by wards and partly at large (a mixed system). This option may be best when there are clear district-wide communities of interest as well as specific geographically based communities of interest.
- 5.24 All members elected under a ward or mixed system make the same declaration on coming into office to act in the best interests of the whole district. In other words, the members under a ward or mixed system have the same obligation to the district as the members elected at large. Therefore there is no functional difference in the decision-making role of members elected at large and members elected by way of a ward system.
- 5.25 Details of the basis of election adopted by territorial authorities since 1989 are set out in [Appendix C: Basis of election](#) on page 58.

## Fair representation of electors

- 5.26 Section 19V of the *Local Electoral Act 2001* details the factors to be applied in determining the membership for wards/constituencies in order to achieve fair representation of electors.
- 5.27 Under this provision, membership of wards/constituencies is required to provide approximate population equality per member, that is, all votes are of approximately equal value (referred to as the ‘+/-10% rule’) unless there are good (prescribed) reasons to depart from this requirement.
- 5.28 Section 19V outlines the specific requirements as follows:

(2) For the purposes of giving effect to subsection (1), the territorial authority or regional council and, where appropriate, the Commission must ensure that the population of each ward or constituency or subdivision, divided by the number of members to be elected by that ward or constituency or subdivision, produces a figure no more than 10% greater or smaller than the population of the district or region or community divided by the total number of elected members (other than members elected by the electors of a territorial authority as a whole, if any, and the mayor, if any).

- 5.29 In respect of territorial authorities, section 19V(3)(a) provides four grounds for not complying with the fair representation requirements of section 19V(2). These grounds are:
- to provide for effective representation of communities of interest within:
    - island communities
    - isolated communities
  - where compliance would limit effective representation of communities of interest by:
    - dividing a community of interest
    - grouping together communities of interest with few commonalities of interest.
- 5.30 In the case of regional councils, constituencies may be defined in such a way that does not comply with section 19V(2) if it is considered that this is required to achieve effective representation of communities of interest (s19V(3)(b)).
- 5.31 A decision by a local authority not to comply with section 19V(2) must be referred to the Commission for determination. Referral to the Commission is required whether or not appeals or objections have been lodged against the local authority's proposal. That referral is treated by the Commission as an appeal under the *Local Electoral Act 2001*.
- 5.32 It is important that all local authorities, including regional councils, clearly identify the grounds for any proposed non-compliance with the '+/-10% rule' of section 19V(2). This is required for the public notices under section 19M(2)(c) and section 19N(2)(bb) and assists the Commission in its deliberations.
- 5.33 Examples of the application of the '+/-10% rule', including exceptions, can be found in the Commission's determinations for the 2010, 2013 and 2016 elections, available on the Commission's website [www.lgc.govt.nz](http://www.lgc.govt.nz). Earlier determinations can be found on the Commission's [archived website](#). Note that these earlier determinations were made under the then-current legislation which provided that exceptions to the '+/-10% rule' could only be made for territorial authorities in relation to island or isolated communities.

- 5.34 In relation to isolated communities, the *Local Electoral Act 2001* does not specify the criteria to be met to warrant specific representation by a member or members on a territorial authority, but given the requirements of subsections (1) and (2) of section 19V, it does imply a significant test in this regard.
- 5.35 The Commission recommends territorial authorities consider the following factors when determining whether a community or grouping of communities of interest warrants specific representation because of its isolation:
- isolation needs to relate to the ability of a community to receive appropriate representation by elected members
  - isolation needs to be evidenced by things such as significant distance or travel time, or other physical/practical travel, and/or communications difficulties, or service reliability problems
  - for a community to have enhanced representation on the grounds of isolation, a significant proportion of the population of the area should be physically isolated
  - physical separation alone may not necessarily constitute isolation
  - an area may not be isolated simply because it is rural in nature
  - isolation may justify one member instead of no specific representation for a community based on an application of the ‘+/-10% rule’, but caution would need to be applied in allocating additional members on that basis.
- 5.36 In addition, a district may have its own particular factors that contribute to an area having a sense of isolation.
- 5.37 While section 19V does not specifically identify grounds for regional councils not to comply with the ‘+/-10% rule’ the grounds for non-compliance set out in section 19V(3)(a) relating to territorial authorities, could be used as possible reasons for non-compliance by a regional council.

## Questions and answers relating to effective and fair representation

### *Is effective or fair representation more important?*

- 5.38 Section 4(1) (Principles) makes it clear that fairness and effectiveness are equally important:

(a) fair and effective representation for individuals and communities

- 5.39 This is supported by recent amendments to the fair representation requirements with some permitted exceptions now being linked to effective representation requirements.

- 5.40 In practice, there is often a tension between the tests for effective and fair representation, and the identified options may not satisfy both tests perfectly. However the assessment of one requirement will help inform assessment of the other in order to reach a balance between the two.

***How much discretion is there in applying the isolation factor when determining fair representation for territorial authorities?***

- 5.41 The Commission believes that 'isolation' is best assessed in relation to the particular local circumstances of a district, so a generic definition is not practical. However, it also believes the generic characteristics of isolation identified in paragraph 5.35 should guide territorial authorities' assessment of isolation. The Commission applies these when considering appeals, objections, and proposals.

***If a territorial authority ward or regional council constituency is allowed to not comply with the '+/-10% rule' how does that affect the application of the rule across the rest of the district/region?***

- 5.42 If wards/constituencies are determined to be defined and members distributed between them in a way that does not comply with the '+/-10% rule', compliance with the rule is relaxed for the balance of the district/region. However, the Commission considers that other wards/constituencies need to be as close as practicable to +/-10%.

***How is the '+/-10% rule' calculated for the balance of the district/region when an exception is made for one ward or constituency?***

- 5.43 The '+/-10% rule' is calculated once under section 19V(2) for the district/region as a whole regardless of whether any exceptions to the rule are being proposed. It is not calculated again for the balance of the district/region once any exception has been identified.

## Chapter 6: Reviewing communities and community boards

### Introduction

- 6.1 All territorial authorities must consider whether community boards are (or would be) appropriate to provide fair and effective representation for individuals and communities in its district as part of their representation review (s19J).
- 6.2 The representation review provides a process for a territorial authority to propose the constitution of new boards, alterations to existing boards, or disestablishment of existing boards.
- 6.3 When carrying out a review, the required decisions are:
- whether there needs to be communities and community boards within the territorial authority's district
  - if the territorial authority decides that one or more communities needs to be established (or retained):
    - the nature of the community and
    - the structure of the community board.
- 6.4 Schedule 6 of the *Local Government Act 2002* provides for community boards to be established at any time as the result of a proposal from the community concerned. However boards may only be disestablished, or the boundaries of a community altered, as part of a:
- representation review under the *Local Electoral Act 2001*, or
  - local government reorganisation scheme.

### Key statutory provisions

- 6.5 Section 19F provides for a minimum of 4 and maximum of 12 community board members (with at least 4 elected members) and the appointment of members by the parent territorial authority (appointees must total less than half the total number of members).
- 6.6 Section 19G prescribes that the area of a community board may be subdivided for electoral purposes. This includes provision for the community board members to be elected by wards if the community board area comprises two or more whole wards of a district.
- 6.7 The division of a community board area into electoral subdivisions may be appropriate when the community board area is made up of a number of distinct communities of interest and the formation of subdivisions will provide more effective representation of these communities of interest.

- 6.8 The issues to consider when deciding whether or not a community board area needs to be subdivided are similar to those which apply to the division of a district into wards discussed in [Chapter 5: Fair and effective representation](#), excluding the mixed system of representation.
- 6.9 The fair representation requirements of section 19V (the ‘+/-10% rule’) also apply in respect of subdivisions of communities including the permitted exceptions in section 19V(3)(a).
- 6.10 The following table sets out specific decisions that need to be made in reviews of community boards under section 19J of the *Local Electoral Act 2001*.

Section	Decision
19J(1)	Whether to have communities and community boards If so, the nature of any community and the community board structure
19J(2)(a)	Whether to establish 1 or more communities
19J(2)(b)	Whether to abolish or unite any community
19J(2)(c)	Whether to alter the boundaries of a community
19J(2)(d)	Whether to subdivide any community
19J(2)(e)	Whether to alter the boundaries of a subdivision
19J(2)(f)	The number of members of a community board
19J(2)(g)	The number of elected and appointed members of a community board
19J(2)(h)	Whether the members to be elected need to be elected: <ul style="list-style-type: none"> <li>• across the whole community</li> <li>• from subdivisions</li> <li>• where the community comprises two or more whole wards, from those wards</li> </ul>
19J(2)(i)	Where members are to be elected from subdivisions: <ul style="list-style-type: none"> <li>• the name and boundaries of subdivisions</li> <li>• the number of members to be elected from each subdivision (in accordance with the ‘+/-10% rule’ set out in section 19V(2))</li> </ul>

- 6.11 In undertaking its review, the territorial authority is required to consider the criteria as apply to reorganisation proposals under the *Local Government Act 2002* as the territorial authority considers appropriate (s19W). Key criteria are set out in clauses 11, 12 and 19 of Schedule 3 of the *Local Government Act 2002* (see [Appendix D: Criteria for reorganisation schemes](#) on page 60). Applying these criteria for reviews relating to community boards means considering:
- Will the proposal promote good local government of the parent district and the community area concerned?
  - Will the district and the community have the resources necessary to enable them to carry out their respective responsibilities, duties and powers?
  - Will the district and the community have areas that are appropriate for the efficient and effective performance of their role?
  - Will the district and the community contain a sufficiently distinct community of interest or sufficiently distinct communities of interest?

## Administrative changes from proposals to change community board arrangements

- 6.12 When deciding community board matters under section 19J, the territorial authority (or Commission, if applicable) needs to consider the criteria for reorganisation proposals (see Schedule 3 of the *Local Government Act 2002*) that they consider appropriate.
- 6.13 The High Court has found that previous statutory reorganisation considerations were broad enough that administrative changes resulting from changing existing community board arrangements also fell within the criteria, and therefore are matters that the territorial authority and the Commission need to consider when making their decision.<sup>5</sup>
- 6.14 Administrative changes include any allocation of resources and funding, and any delegation of statutory authority to enable a community board to discharge responsibilities referred or delegated to it under section 52 of the *Local Government Act 2002* by the territorial authority.

## General

- 6.15 All elements of territorial authorities' representation proposals (including the elements relating to community boards) are subject to rights of appeal and/or objection. Therefore, the issues relating to community boards considered under section 19J need to be as carefully considered as all the other elements of the review.
- 6.16 The Commission has no power to determine a community board's functions or delegations as part of any representation determination.

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<sup>5</sup> Paragraphs 111 to 119 of the judgment in *Ford & Ors v The Local Government Commission & Ors* (16/8/2004, High Court, Christchurch, John Hansen J, CIV-2004-409-948) set out the Court's reasoning on this matter.

## Chapter 7: Reviewing local boards

### Introduction

- 7.1 All territorial authorities with local boards must consider the membership and the name of each local board as part of their representation review (s19H(1)(i)).
- 7.2 When carrying out a review, the required decisions are:
- the number of members of local boards
  - whether elected members are to be elected from the whole local board area, subdivisions, or wards (if the local board area comprises 2 or more wards)
  - if the basis of election is subdivisions, the names and boundaries of the subdivisions, and the number of members for each subdivision
  - if the basis of election is wards, the number of members to be elected by each ward
  - where appointed members are a requirement, the number of appointed members of local boards
  - the names of local boards.
- 7.3 The following matters relating to local boards are to be dealt with only by way of reorganisation applications under the *Local Government Act 2002*, and therefore not through the representation review process (s24, LGA):
- establishment of local board areas
  - abolition of local board areas
  - alteration of boundaries of local board areas
  - union of 2 or more local boards.
- 7.4 As can be seen reviews of local board arrangements are more limited than the requirement to review community boards.

### Key statutory provisions

- 7.5 Section 19EA<sup>6</sup> provides for a minimum of 5 and maximum of 12 local board members.
- 7.6 The LGA and the LEA provide that, if provided for by an Order in Council implementing a reorganisation proposal, local boards:
- include appointed members<sup>7</sup>
  - have a chairperson directly elected by electors<sup>8</sup>

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<sup>6</sup> Section 11, Local Government (Auckland Council) Act 2009 applies in the case of Auckland local boards.

<sup>7</sup> Section 48E, LGA and section 19EA, LEA

Neither of these options are able to be used for local boards in Auckland (see section 11(2)(a), Local Government (Auckland Council) Act).

- 7.7 Section 19EC deals with the basis of election for elected members of local boards. It provides three bases of election:
- subdivisions
  - wards, a local board area comprises two or more whole wards
  - the whole of the local board area
- 7.8 The division of a local board area into electoral subdivisions may be appropriate when the local board area is made up of a number of distinct communities of interest and the formation of subdivisions will provide effective representation of these communities of interest.
- 7.9 The issues to consider when deciding whether or not a local board area needs to be subdivided are similar to those which apply to the division of a district into wards discussed in [Chapter 5: Fair and effective representation](#), excluding the mixed system of representation.
- 7.10 The fair representation requirements of section 19V (the ‘+/-10% rule’) also apply in respect of subdivisions of local board areas including the permitted exceptions in section 19V(3)(a).
- 7.11 The following table sets out specific decisions that need to be made in reviews of local boards under section 19H of the *Local Electoral Act 2001*.

Section	Decision
19H(1)(e)	The number of members of a local board
19H(1)(f)	Whether the members to be elected need to be elected: <ul style="list-style-type: none"> <li>• from the whole local board area</li> <li>• from subdivisions</li> <li>• where the local board area comprises two or more whole wards, from those wards</li> </ul>
19H(1)(g)	Where members are to be elected from subdivisions: <ul style="list-style-type: none"> <li>• the name and boundaries of subdivisions</li> <li>• the number of members to be elected from each subdivision (in accordance with the ‘+/-10% rule’ set out in section 19V(2))</li> </ul>
19H(1)(h)	Where members are to be elected from wards, the number to be elected from each ward
19H(1)(i)	The names of local boards

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<sup>8</sup> Section 48E, LGA and section 19EB, LEA

## General

- 7.12 All elements of territorial authorities' representation proposals (including the elements relating to local boards) are subject to rights of appeal and/or objection. Therefore, the issues relating to local boards considered under section 19H need to be as carefully considered as all the other elements of the review.
- 7.13 The Commission has no power to determine a local board's responsibilities or delegations as part of any representation determination.

## Chapter 8: Consultation

### Introduction

- 8.1 Part 1A of the *Local Electoral Act 2001* sets out requirements for conducting representation reviews, including providing opportunity for the public to make submissions on a local authority's proposals.
- 8.2 The following sections of the *Local Government Act 2002* contains sections that apply to local authorities performing functions under all enactments:
- sections 10, 11, 12(2), and 14 – relating to the purpose of local government and the role, status, powers and principles for local authorities
  - sections 76 to 82 – relating to decision-making and consultation requirements.
- 8.3 During representation reviews local authorities need to be mindful of the principles set out in section 14 of the *Local Government Act 2002*, including:
- being aware of, and regarding the views of all of its communities
  - accounting for the diversity of the community
  - providing opportunities for Māori to contribute to decision-making processes.

### Preliminary consultation

- 8.4 Some local authorities undertake preliminary consultation before beginning the formal statutory representation review process, including community surveys or referenda, discussion documents, newspaper advertising, focus groups, email groups of interested citizens, and public workshops and meetings. These activities are led or facilitated by local councillors, community boards, or other community groups. Targeted consultation may also be appropriate, including with local Māori.<sup>9</sup>
- 8.5 Preliminary consultation may seek views on particular representation options as well as on factors such as current communities of interest. This consultation can assist local authorities to identify issues relevant to the review process and enable them to consider a wider range of representation options when developing their formal proposal.

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<sup>9</sup> Specific consultation with iwi and hapū may be required if determining the number, area and boundaries of Māori wards/constituencies.

- 8.6 Preliminary consultation is not a substitute for the formal statutory steps. For example, the results of a referendum may indicate overall public opinion, but should not be used as the only justification of a particular ward/constituency configuration. The review must seek to achieve fair and effective representation for all individuals and communities of interest of the district/region, and not be limited to reflecting community views on particular aspects of arrangements.
- 8.7 Consider using independent panels to undertake preliminary consultation and then make recommendations on options for representation arrangements. This avoids potential perceptions of parochialism and self-interest arising from elected members' involvement.
- 8.8 When convening an independent panel:
- select people who have relevant skills, and a good knowledge of the district/region
  - provide clear terms of reference,
  - fully brief the panel on its task, ensuring it has a good understanding of the statutory requirements for reviews.

## Statutory requirements

- 8.9 The statutory consultation requirements for initial and final proposals:
- have their timelines summarised in [Table 1: Representation review timelines](#)
  - are detailed under sections 19M (initial) and 19N (final) of the *Local Electoral Act 2001*
  - are based on the special consultative procedure provided for in the *Local Government Act 2002*.
- 8.10 The following appendices contain sample public notices based on the requirements of sections 19M and 19N:
- [Appendix E: Sample public notice – initial proposal](#)
  - [Appendix F: Sample public notice – final proposal](#)
  - [Appendix G: Sample public notice – no submissions](#)
  - [Appendix H: Sample public notice – no appeals or objections](#)
- 8.11 Sections 19M and 19N describe the minimum required. Local authorities need to consider additional steps to encourage feedback from the community on their proposals.
- 8.12 Providing full information to the public on representation proposals is good practice, and may reduce the potential for appeals and/or objections.
- 8.13 For example, to improve the public's access to information about the local elections, consider using:

- local authority facilities and communications channels such as displays at council offices and libraries
- council publications, newsletters, and websites
- news media and social media.

8.14 Ensure that information is easy to understand. For example, clarify proposed electoral subdivisions by including suitable maps (or details of where to view them physically or electronically) in public notices.

## Chapter 9: Recommended practice processes

- 9.1 The *Local Electoral Act 2001* does not prescribe the representation review process. Each local authority may determine its own process for undertaking its review provided the statutory requirements are met. The following recommended process steps are designed to assist local authorities to achieve a robust outcome that accords with the statutory requirements and other relevant considerations.

### Preliminary steps

#### Step 1: Identify criteria for assessing need for review after three years

- 9.2 Local authorities must carry out a representation review at least every six years, and may choose to carry out a review more frequently. If considering whether to undertake a review more than once within a six year period, consider:
- What are the local authority's and/or community's views on the current electoral system?<sup>10</sup>
  - Given the establishment of Māori wards/constituencies triggers a representation review, what are the local authority's and/or community's views on the issue of separate Māori representation? Do local authority policies result in an obligation to consult with local Māori on this issue?<sup>11</sup>
  - What are the local authority's and/or community's views on current community boards (if any) and/or the establishment of new boards? (applies only to territorial authorities)
  - What are the local authority's and/or community's views on the current basis of election; that is, does it need to be a ward, at large or mixed system? (applies only to territorial authorities)
  - What are the local authority's and/or community's views on the present number of councillors?
  - Have there been significant changes in population in some areas which impact on fair representation, that is, approximate equality between councillors in the numbers represented?
  - Is the determination for the previous election now seen as resulting in less than optimum effectiveness of representation for communities of interest?
  - Are there any other reasons (current or future considerations) that suggest a review needs to be undertaken at this time?
- 9.3 In addition, local authorities have the option of making minor boundary alterations after three years rather than undertaking a full review (see [Chapter 13: Minor boundary alterations](#)).

<sup>10</sup> Not relevant if the electoral system was determined by poll for the last election.

<sup>11</sup> Not relevant if Māori representation was determined by poll for the last election.

- 9.4 Local authority officers are advised to consider these questions and discuss whether to carry out a review every three years with elected members (formally or informally).

## Step 2: Consider preliminary consultation

- 9.5 Once a local authority has decided to carry out a representation review, they need to consider whether to carry out preliminary consultation with the community (including local Māori) on the representation issues including:
- the electoral system
  - Māori representation, and
  - communities of interest.
- 9.6 The local authority also needs to liaise with the other local authorities in the region or area over the timing of representation reviews, including the possibility of carrying out joint consultation activities.

## Representation review steps

### Step 3: Identify communities of interest

- 9.7 Identify the communities of interest of the district/region considering the factors set out in [Chapter 5: Fair and effective representation](#) and other relevant information available to the local authority.

### Step 4: Determine effective representation for communities of interest

- 9.8 Territorial authorities need to consider whether effective representation for identified communities of interest is best achieved by way of elections held at large, wards, or a mix of both. Considerations will include the:
- accessibility, size, and configuration of the district
  - the existence of community boards
  - the electoral system
  - any Māori wards
  - single versus multi-member wards
  - the wider statutory role of local authorities encompassing overall community well-being, sustainability and the interests of future generations
  - increasing diversity of the population and the physical location of particular communities of interest
  - improved communications mechanisms.
- 9.9 Regional Councils must have constituencies.

- 9.10 Local authorities need to consider what council size, or range in membership, would be appropriate to provide effective representation for the district/region as a whole, bearing in mind:
- the diversity of the district/region
  - statutory obligations (for example, is it a unitary authority)
  - the need for efficient and effective governance of the district/region.
- 9.11 Consider whether each identified community of interest needs separate representation in a ward/constituency, or whether some communities of interest can be grouped together to achieve effective representation considering the need to:
- facilitate elector and resident participation
  - avoid dividing recognised communities of interest between wards/constituencies
  - avoid grouping communities of interest with few commonalities
  - factor in the accessibility, size, and configuration of the area concerned.
- 9.12 Regarding wards/constituencies, determine:
- the number of wards/constituencies based on communities of interest, or groupings of communities of interest (see previous paragraph)
  - the boundaries of wards/constituencies including the requirement, as far as practicable, for constituencies to coincide with territorial authority and ward boundaries, and for ward boundaries to coincide with community boundaries
  - the names of the wards/constituencies (see [\*Names of electoral subdivisions\*](#) on page 42).

### Step 5: Consider fairness of representation for electors of constituencies and wards

- 9.13 In relation to the range of options for the total membership of the local authority:
- identify the ratio of population per member for each proposed ward/constituency
  - compare the ward/constituency ratios calculated with the average population per member for the local authority as a whole.
- 9.14 Under any of the options for total membership, do the ward/constituency ratios fall within +/-10% of the average population per member?
- If “yes”, which option would provide the optimum local authority size in terms of providing effective and fair representation?
  - If “no”, consider altering ward/constituency boundaries or reconfiguring these (to the extent practicable to provide effective representation of communities of interest) so that the ratios fall within +/-10% of the average population per member.

- 9.15 If the alteration or reconfiguration does not achieve the required ratios, consider whether there are sufficient grounds to not comply with the requirements of section 19V(2) – that is, are there sufficient grounds for applying the provisions of sections 19V(3)(a) or (b)?
- 9.16 If sufficient grounds for an exception:
- are identified, document these in appropriate detail
  - cannot be identified, consider altering or reconfiguring the boundaries.

## Step 6: Consider communities and community boards (for territorial authorities only)

- 9.17 In light of the principle of fair and effective representation for individuals and communities, consider and document whether:
- there need to be communities and community boards
  - the nature of any community and the structure of any community board
  - community boards should cover all or only parts of the district, and the rationale for the approach taken.
- 9.18 Where community boards are to be established or retained, consider whether effective representation for identified communities of interest is best achieved by way of:
- an at large system
  - subdivision of the community, including boundaries and names of subdivisions
  - whole territorial authority wards within the community.
- 9.19 Where community boards are to be established, a similar process for territorial authority reviews is to be undertaken to:
- identify the total number of members required (both elected and appointed)
  - the number of members per subdivision (if any) to ensure compliance with the ‘+/-10% rule’, or number per ward (if any)
  - the number (if any) of members to be appointed by the parent territorial authority.

## Local authority decision-making

- 9.20 When resolving its initial proposal, each local authority must act in accordance with the requirements of the:
- *Local Electoral Act 2001*, and
  - the consultation and decision-making provisions of the *Local Government Act 2002*.
- 9.21 Local authority officers and members involved with the review process need to be familiar with relevant administrative law issues, and need to seek advice from their legal advisers when necessary.

- 9.22 If a local authority receives submissions on its initial proposal, it must ensure that it acts in a legally 'fair' way in considering them. For instance, if any person exercises the right to be heard under section 19M(3) of the *Local Electoral Act 2001* it is typically appropriate that only local authority members who hear the submissions participate in the decision-making on those submissions. If an elected member has very good reason for being unable to attend oral submission presentations, it may be possible for them to still participate in the decision-making, provided that they take all reasonable steps to inform themselves about the oral submissions concerned.
- 9.23 Each local authority needs to consider all submissions received, and must be able to demonstrate that it has done this by providing reasons for the acceptance or rejection of submissions. Amendments in a local authority's final proposal must be made in response to submissions, or else the initial proposal needs to be retained. Otherwise the community has not had an opportunity to give feedback on all aspects of the proposal, and community members may have grounds to submit appeals and/or objections.
- 9.24 The local authority's public notice of its final proposal under section 19N(2) is required to state the reasons for amendments and the reasons for any rejection of submissions, so the reasons must be recorded in the local authority's resolution of its final proposal.
- 9.25 It is important to carefully consider the following issues in particular, and to record detailed reasoning for all related decisions:
- identification of communities of interest
  - the basis of election (territorial authorities only)
  - establishment or retention of community boards (territorial authorities only)
  - provision of fair and effective representation for electors and communities of interest, and compliance with the '+/-10% rule' in particular
  - consideration by regional councils of the practicality of constituency boundaries coinciding with territorial authority or ward boundaries, and
  - consideration by territorial authorities of ward boundaries coinciding with community boundaries.

## Chapter 10: Additional requirements

### Names of electoral subdivisions

- 10.1 In general, names of electoral subdivisions should:
- use the most common or predominant, place or feature name (whether official or recorded) within the electoral subdivision concerned
  - avoid duplication and confusion of names of electoral subdivisions with those in other local authority areas.
- 10.2 Appeals and/or objections may be lodged with the Local Government Commission against the names of communities, subdivisions, and wards/constituencies.
- 10.3 Local authorities considering new names for any electoral subdivisions may wish to contact the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa (the NZGB), which has national guidelines on naming, including the appropriate use of place names and the conventional spelling of place names.
- 10.4 Information on the NZGB, the rules of naming covered in the NZGB's frameworks and the New Zealand Gazetteer of Official Geographic Names, can be found under "Place names & street names" at <http://www.linz.govt.nz.nz/regulatory/placenames> .
- 10.5 The NZGB does not have jurisdiction over the naming of electoral subdivisions, so the statutory process outlined in the *New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008* does not apply.<sup>12</sup>
- 10.6 Local authorities are encouraged to refer to *Section 3 Locality Definition and Naming* in *AS NZS 4819-2011 Rural and urban addressing* for good practice naming guidelines. This is available from the Standards New Zealand website [www.standards.co.nz](http://www.standards.co.nz).
- 10.7 Enquiries regarding the NZGB and the process for assigning or altering official place names (but not the names of electoral subdivisions) should be directed to:

Wendy Shaw  
Secretary for the New Zealand Geographic Board  
Ngā Pou Taunaha o Aotearoa

Post: c/o Land Information New Zealand  
PO Box 5501  
Wellington 6145

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<sup>12</sup> The NZGB does, however, have a role in changing the names of districts and regions when requested to do so by a local authority. See sections 22 and 23 of the *New Zealand Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008*.

Phone: (04) 460 0581  
 Email: [wshaw@linz.govt.nz](mailto:wshaw@linz.govt.nz)  
 Website: [www.linz.govt.nz](http://www.linz.govt.nz)

## Meshblocks

- 10.8 Under sections 19T(b), 19U(b) and 19W(c) of the *Local Electoral Act 2001*, all ward, constituency, community and subdivision boundaries (including those of Māori wards/constituencies) must coincide with the boundaries of statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes.
- 10.9 If a local authority is considering boundaries that do not align with meshblock boundaries, it will need to consult Stats NZ to ascertain whether specific meshblock boundary alterations are possible. Stats NZ may at times put in place a “meshblock freeze” during which no splits or nudges will be undertaken. Stats NZ may, in some cases, (when a meshblock freeze is not in place) be able to split meshblocks or nudge meshblock boundaries to better reflect communities of interest or current property boundaries.

- 10.10 Enquiries regarding meshblock alterations should be directed to the Geospatial Team as follows:

Jill Foster Phone: (03) 964 8909

Rachel Livingston Phone: (03) 964 8448

Post: Geospatial Team  
 Stats NZ Tatauranga Aotearoa  
 : Private Bag 4741  
 Christchurch

Email: [geography@stats.govt.nz](mailto:geography@stats.govt.nz)

Website: [www.stats.govt.nz](http://www.stats.govt.nz)

## Use of population data

- 10.11 When carrying out its representation review, the local authority must (s19X) apply the “ordinarily resident population” figures derived from either:
- the most recent census, or
  - population estimates prepared by Stats NZ.
- 10.12 The Commission recommends that most recent population estimate is used, so that each local authority is applying population data that most accurately reflects its current situation.

- 10.13 Stats NZ produces sub-national population estimates annually. Estimates for local authority districts and existing electoral areas are published by Statistics New Zealand and on the Local Government Commission's website.
- 10.14 Stats NZ will not provide estimates of population for individual meshblocks. Estimates of population will be provided for existing electoral areas, proposed electoral areas (if an appropriate geographic description is provided), area units, and whole districts.
- 10.15 Population estimates for areas smaller than an area unit (for example, a group of meshblocks) will be available each year from December onwards on request.
- 10.16 Stats NZ charges a fee for the preparation of population estimates for areas that are not existing electoral subdivisions.
- 10.17 Enquiries regarding population estimates should be directed to:

Lisa Sands  
Population Statistics  
Stats NZ Tatauranga Aotearoa

Post: Private Bag 4741  
Christchurch

Phone: (03) 964 8370  
Email: [info@stats.govt.nz](mailto:info@stats.govt.nz)  
Website: [www.stats.govt.nz](http://www.stats.govt.nz)

## Informing relevant organisations

- 10.18 Each local authority needs to keep the following informed of its representation review's progress; the:
- Commission
  - Surveyor-General, and
  - Government Statistician.
- 10.19 Local authorities are required to provide the above parties and the Remuneration Authority a copy of the:
- resolution on its initial proposals (section 19L)
  - public notice of its final proposals, if submissions were received on the initial proposals (section 19N)
  - public notice of its final proposals, if no submissions were received on the initial proposals, or if no appeals and/or objections were received (section 19Y).
- 10.20 A copy of the public notice under section 19Y is also required to be sent to the Secretary for Local Government.

10.21 The Commission requests that in addition to the statutory information requirements, each local authority provides copies of the following information to the Commission as and when they are released:

- any public discussion or consultation documents issued relating to the review
- officer reports to the local authority, and
- all relevant local authority resolutions and public notices.

10.22 A local authority also needs to ensure that other local authorities with a direct interest in its proposal are provided with copies of the public notices issued by the local authority in undertaking its representation review. Sections 19N and 19Y require:

- a territorial authority issuing a public notice to provide it to the regional council(s) in whose region(s) the district is located
- a regional council issuing a public notice to provide it to the territorial authorities located in its region.

10.23 The postal addresses for the organisations required to receive copies of public notices are:

Chief Executive Officer  
**Local Government Commission**  
 PO Box 5362  
 Wellington 6145

Government Statistician  
**Statistics New Zealand**  
 PO Box 2922  
 Wellington 6140

Surveyor-General  
**Land Information New Zealand**  
 PO Box 5501  
 Wellington 6145  
 Preferred means of contact –  
[electoral@linz.govt.nz](mailto:electoral@linz.govt.nz)

Chair  
**Remuneration Authority**  
 PO Box 10-084  
 Wellington 6143

Secretary for Local Government  
**Department of Internal Affairs**  
 PO Box 805  
 Wellington 6140

## Chapter 11: Appeals, objections, and referrals

### Introduction

- 11.1 Once a local authority has decided on its final proposal:
- an appeal may be made by a submitter on the initial proposal about matters related to their original submission (s19O)
  - an objection may be lodged by any person or organisation if a local authority's final proposal differs from its initial proposal (s19P). The objection must identify the matters to which the objection relates.
  - the local authority must refer their final proposal to the Commission if the proposal does not comply with the '+/-10% rule' (s19V).
- 11.2 Any references to appeals in this chapter include any proposals referred under section 19V, as they are treated as appeals.
- 11.3 Appeals, objections, and referrals under section 19V are sent to the Commission.
- 11.4 Local authorities must set the closing date for appeals and objections:
- at least one month after the date of the public notice issued under section 19N(1)(b)
  - no later than 20 December in the year before election year.
- 11.5 There is no provision in the *Local Electoral Act 2001* for the acceptance of late appeals or objections.

### The role of the Commission

- 11.6 When there are appeals, objections or referrals, the Commission must:
- consider the appeals, objections, and other information forwarded to it
  - determine the representation arrangements for the local authority (section 19R)
  - complete its duties before 11 April in election year.
- 11.7 In making its determination, the Commission is able to make any enquiries that it considers appropriate, and may choose to hold meetings with the parties.
- 11.8 Determinations of the Commission may be:
- appealed on a point of law, in accordance with Schedule 5 of the *Local Government Act 2002*
  - subject to judicial review under the *Judicial Review Procedure Act 2016*.

11.9 One of the Commission's 2004 determinations was subject to judicial review<sup>13</sup>. The High Court's judgement confirmed that:

- the Commission's role is to determine the matters required to complete the review of representation arrangements
- the Commission's role is not merely supervisory of a local authority's decision. This means that the Commission is not restricted to checking that a local authority has followed a correct process and referred to all relevant factors, but that it is also required to form its own view on the matters which are within the scope of the review
- the Commission is required to take into account the local authority's proposal (amongst other matters), and the weight accorded to the proposal is determined by the Commission
- it is not mandatory for the Commission to consider the weight of numbers in favour of a particular viewpoint. One compelling submission may provide sufficient material for the Commission to reach a decision.

## Information to be provided to the Commission

11.10 The information required to accompany the appeals and objections forwarded to the Commission is (set out in detail in section 19Q):

- copies of the resolutions on the initial and final proposals
- a copy of the public notice of the final proposal
- all submissions made on the local authority's initial proposal
- all appeals and objections received
- information concerning the communities of interest and population of the district, region or community, or any proposed electoral subdivision, as is held by the local authority and is necessary for the Commission's determination of the appeals and objections.

11.11 In addition, the Commission would normally expect the following information to be provided:

- copies of any public discussion or consultation documents on the review
- detailed maps showing the existing electoral subdivisions of the local authority or community and the proposed subdivisions
- officer reports to the local authority that provide background information and make recommendations, including the financial impacts of any proposals.

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<sup>13</sup> Ford & Ors v The Local Government Commission & Ors (16/8/2004, High Court, Christchurch, John Hansen J, CIV-2004-409-948)

## Commission consideration

- 11.12 When considering appeals and/or objections against the final proposal of a local authority, the Commission has the option of either making a decision based on the papers, or holding a hearing at which the parties may put forward their respective viewpoints. The Commission also has the discretion to make any inquiries it considers appropriate.
- 11.13 Occasionally the Commission has invited selected submitters who support local authority proposals to appear at hearings in order that the Commission hears a balance of views. Others, such as representatives of community boards, may also be invited to ensure additional perspectives are heard by the Commission. Such invitations are made at the discretion of the Commission.
- 11.14 For appeals involving relatively minor matters the Commission has, on occasions, reached its decision based on a consideration of the papers. In deciding whether or not to hold a hearing, the appeals and/or objections received will be assessed to determine whether a hearing is justified in a particular case, taking into account the workload of the Commission and the time constraints of the legislation.
- 11.15 Because of the limited time available to the Commission for considering and determining appeals and objections, meetings to hear appellants/objectors may not always be at times or on dates that are convenient to all participants. Hearings are usually held in local authority premises. Refer to [Appendix I: Appeals and objections hearing processes](#) for details on the conduct of Commission hearings and process requirements.

## Commission decisions

- 11.16 Commission decisions take account of matters:
- that come before it through appeals and objections
  - raised in submissions to a local authority's initial proposal, and information gained through any further inquiries the Commission considers appropriate (s19R).
- 11.17 With regard to a proposal before it, the Commission must rectify any element of a local authority's proposal that it considers does not comply with the statutory provisions, whether or not that element of the proposal was the subject of an appeal or objection. Therefore, there may be occasions when the Commission's determination is not founded on any particular proposal, submission, objection, or appeal.
- 11.18 In considering local authority proposals, the Commission must ensure that the provisions of sections 19T or 19U or 19W, and section 19V are complied with. If the Commission does not consider that the local authority has established grounds for a departure from the '+/-10% fair representation rule' in section 19V(2), then the Commission is required to ensure that this requirement is met.

## Chapter 12: Implementation issues

### What happens after Commission makes its determination?

- 12.1 After the Commission has made a determination on a local authority's representation arrangements, it:
- advises the affected local authority and the appellants and objectors
  - advises the news media
  - advises the Surveyor-General, Government Statistician, the Remuneration Authority and the Secretary for Local Government
  - gives public notice of the determination (the cost of which is met by the Commission).
  - where boundaries have been altered or new electoral areas are established, arranges for the preparation of plans defining those boundaries and area (the cost of which is met by the affected local authority).
- 12.2 As well as formally advising the Government Statistician of the determination, the Commission liaises with Stats NZ's Geospatial Team to ensure that new or altered boundaries are reflected in the digital meshblock pattern. In turn Stats NZ provides the new meshblock pattern to the Electoral Commission, so that electoral rolls reflect the new or altered boundaries.
- 12.3 When the Commission has determined a local authority's representation arrangements It is not necessary for the local authority to liaise with Stats NZ or to arrange for the preparation of plans. This will be done by the Commission.

### What happens if a local authority's proposal is not considered by the Commission?

- 12.4 If the Commission does not have to determine a local authority's representation review proposal it is the local authority's responsibility to liaise with Stats NZ over changes required by new or altered boundaries and to arrange for the preparation of new plans.
- 12.5 In such cases Commission staff are able to provide technical advice to the local authority or to Stats NZ.

## Preparation and certification of plans

- 12.6 Representation arrangements for the next local authority or community board election do not take effect unless plans of the relevant electoral subdivisions have been:
- forwarded to Land Information New Zealand (LINZ), and
  - certified by the Surveyor-General or his/her delegate.
- 12.7 Forward plans in PDF format to [electoral@linz.govt.nz](mailto:electoral@linz.govt.nz), with the words 'Plan for certification' and the name of the local authority in the subject line of the email.
- 12.8 The Surveyor-General (in conjunction with the Commission) has issued a standard specifying the requirements for plans submitted for certification - [Standard for plans of local authority areas - LINZS5000](#).
- 12.9 When the Commission determines a local authority's representation arrangement and is required to arrange the preparation of new plans, the relevant local authority must reimburse the Commission for all costs incurred in obtaining the certification, or must meet the costs of the production of the certificate if required to do so by LINZ (s19Y(5)). The Commission may either invoice the local authority, or arrange for the firm undertaking the preparation of the plans to invoice the local authority directly.
- 12.10 The drafting and certification of plans, whether undertaken under instructions from a local authority or the Commission, may take some time to complete. The time and costs involved will generally reflect the number and complexity of changes to existing representation arrangements.
- 12.11 All local authorities need to factor in provision for costs associated with such plans when developing the budgets for their representation reviews.
- 12.12 Copies of current plans can be viewed on the Commission's website at [www.lgc.govt.nz](http://www.lgc.govt.nz).

## When do determinations take effect?

- 12.13 The Commission's determinations come into force at the upcoming elections. A local authority or electoral officer may act on the content of a determination to prepare for those elections.

## Chapter 13: Minor boundary alterations

### Introduction

- 13.1 Local authorities not undertaking representation reviews may make minor alterations to electoral boundaries where there have been property boundary changes at or near existing electoral boundaries.
- 13.2 A local authority decision on a minor boundary alteration must be referred to the Commission for determination.

### Key statutory provisions

- 13.3 The statutory provisions relating to minor boundary alterations are set out in section 19JA for territorial authorities and section 19JB for regional councils. These provisions set out the following requirements:
  - since the last representation review, there have been changes to allotment boundaries at or near electoral boundaries<sup>14</sup>
  - the proposed electoral boundary alterations are minor
  - the alterations will maintain effective representation of communities of interest
  - as far as practicable, the proposed electoral boundaries will coincide with allotment boundaries
  - as far as practicable, proposed ward boundaries will coincide with community boundaries (if any), and proposed constituency boundaries will coincide with district or ward boundaries.
- 13.4 The proposal is not subject to consultation in the way a representation review proposal is, but a local authority's decision must be made in an open meeting (ss19JA and B) (subject to the requirements of the *Local Government Official Information and Meetings Act 1987*).
- 13.5 The local authority must refer a decision on a proposed minor boundary alteration to the Commission no later than 15 January in an election year. It must also forward any information on communities of interest, population, and the proposed electoral subdivisions held by the local authority and necessary for the Commission's determination. The information provided to the Commission needs to focus on the areas directly affected by the proposed minor boundary alteration.
- 13.6 The Commission is able to make any inquiries it considers appropriate before making a determination on the proposal. It must make its determination before 11 April in election year.

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<sup>14</sup> Allotment is defined as having the same meaning given by section 218(2)-(4) of the *Resource Management Act 1991* (see [Appendix J](#)).

## Commission consideration

13.7 The Commission sees the normal use of this provision as being situations where a property subdivision has occurred that:

- straddles an electoral boundary, resulting in properties being divided between electoral subdivisions
- leaves properties without direct roading access to the electoral subdivision in which they are situated
- is adjacent to an electoral boundary, and leaves a new property subdivision outside the electoral subdivision in which its predominant community of interest is located.

13.8 The benefits of making minor boundary alterations are seen as:

- better recognising communities of interest
- providing clarity about which electoral subdivision electors should be enrolled in.

## Detailed matters for local authorities

13.9 Minor boundary alterations normally require an alteration to meshblock boundaries and contact should be made with Statistics New Zealand to ascertain whether it will agree to change meshblock boundaries. There may be some circumstances where a meshblock is not able to be changed, for example where the boundary is also the boundary of a parliamentary electorate.

13.10 A local authority considering a minor boundary alteration needs to check whether the boundary is also :

- another local authority's electoral subdivision's boundary, for example, a ward boundary may also be a regional constituency boundary
- a DHB boundary
- a licensing trust district or community trust boundary.<sup>15</sup>

13.11 Discussion with the other affected bodies (and in some cases with the Commission) may help clarify how feasible it is to make a minor boundary alteration.

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<sup>15</sup> Sections 300, 304, 337 and 363 of the *Sale and Supply of Liquor Act 2012* enable the Commission to alter the boundaries of licensing trust districts and community trusts so that they conform with meshblock boundaries.

## Chapter 14: Auckland Council

- 14.1 The representation review provisions of the *Local Electoral Act 2001* apply to the Auckland Council because it is a territorial authority, subject to the following specific provisions of the *Local Government (Auckland Council) Act 2009*:
- the Auckland Council's first representation review must be undertaken before 8 September 2018 (s103(1))
  - the governing body of the Auckland Council must comprise a mayor and 20 members (s8(1))
  - local boards must comprise no fewer than 5 and no more than 12 members (s11(1A))
  - a prohibition on the establishment of community boards in Auckland (s102).
- 14.2 The following matters relating to local boards are to be dealt with by way of reorganisation applications under the *Local Government Act 2002*, and therefore not through the representation review process (s24, LGA):
- establishment of local board areas
  - abolition of local board areas
  - alteration of boundaries of local board areas
  - union of 2 or more local boards.
- 14.3 The following matters relating to local boards must be considered as part of the representation review process (s19H(e)-(i), LEA):
- the number of elected members of local boards
  - whether elected members are to be elected from the whole local board area, subdivisions, or wards (if the local board area comprises 2 or more wards)
  - if the basis of election is subdivisions, the names and boundaries of the subdivisions, and the number of members for each subdivision
  - if the basis of election is wards, the number of members to be elected by each ward
  - the names of local boards.
- 14.4 A new local board established following a reorganisation application under the *Local Government Act 2002* may have:
- a chairperson directly elected by the electors of the local board area
  - a mixture of directly elected members and members appointed by the governing body.
- 14.5 These options are not available to the local boards established under the *Local Government (Auckland Council) Act 2009* (s24(1)(h), LGA).

- 14.6 The *Local Government (Auckland Council) Act 2009* included the following requirements for the representation arrangements determined for the Auckland Council's first election in 2010:
- single member wards for the rural part of the former Rodney District and for that part of the former Franklin District included in Auckland
  - a more flexible approach to the '+/-10% rule' allowing the requirement not to be complied with if considered necessary for the effective representation of communities of interest.
- 14.7 These arrangements do not apply to future reviews. However, the arrangements in section 19V(3)(a) of the *Local Electoral Act 2001* now contain greater flexibility in respect of the '+/-10% rule' than was the case in 2010.
- 14.8 The provisions in section 19JA of the *Local Electoral Act* which permit minor alterations to the boundaries of territorial authority wards, communities, subdivisions of communities, and local board subdivisions:
- apply to Auckland only in relation to wards and local board subdivisions
  - do not apply to the external boundaries of local board areas as these can only be altered through the reorganisation process in the *Local Government Act 2002*.

## Appendix A: Contacts

### Local Government Commission

Telephone: (04) 494 0552  
 Facsimile: (04) 494 0501  
 Email: [info@lgc.govt.nz](mailto:info@lgc.govt.nz)  
 Postal address: PO Box 5362  
 Wellington 6140

### New Zealand Geographic Board (regarding place names)

Wendy Shaw, Secretary for the New Zealand Geographic Board  
 Ngā Pou Taunaha o Aotearoa

Post: c/o Land Information New Zealand  
 PO Box 5501  
 Wellington 6145

Phone: (04) 460 0581  
 Email: [wshaw@linz.govt.nz](mailto:wshaw@linz.govt.nz)  
 Website: [www.linz.govt.nz](http://www.linz.govt.nz)

### Stats NZ

Lisa Sands (re population estimates)  
 Email: [demography@stats.govt.nz](mailto:demography@stats.govt.nz)

Jill Foster and Rachel Livingston (re meshblocks)  
 Email: [geography@stats.govt.nz](mailto:geography@stats.govt.nz)

Stats NZ Tatauranga Aotearoa

Post: Private Bag 4741  
 Christchurch

Phone: (03) 964 8370  
 Fax: (03) 964 8999  
 Website: [www.stats.govt.nz](http://www.stats.govt.nz)

### Organisations required to receive public notices

Chief Executive Officer  
**Local Government Commission**  
 PO Box 5362  
 Wellington 6140

Chair  
**Remuneration Authority**  
 PO Box 10-084  
 Wellington 6143

Government Statistician  
**Statistics New Zealand**  
 PO Box 2922  
 Wellington 6140

Secretary for Local Government  
**Department of Internal Affairs**  
 PO Box 805  
 Wellington 6140

Surveyor-General  
**Land Information New Zealand**  
PO Box 5501  
Wellington 6145  
Preferred means of contact –  
[electoral@linz.govt.nz](mailto:electoral@linz.govt.nz)

## Appendix B: Timelines diagram

Figure 1 below is a summary of the timelines leading up to a round of local government elections. Refer to the relevant sections in these guidelines for detailed information about the associated requirements. An A3 version is available at the Local Government Commission website [www.lgc.govt.nz](http://www.lgc.govt.nz).

Figure 1 includes the dates relating to choosing electoral systems and establishing Māori wards/constituencies that must be met for any new resolutions to apply in the upcoming local government elections.

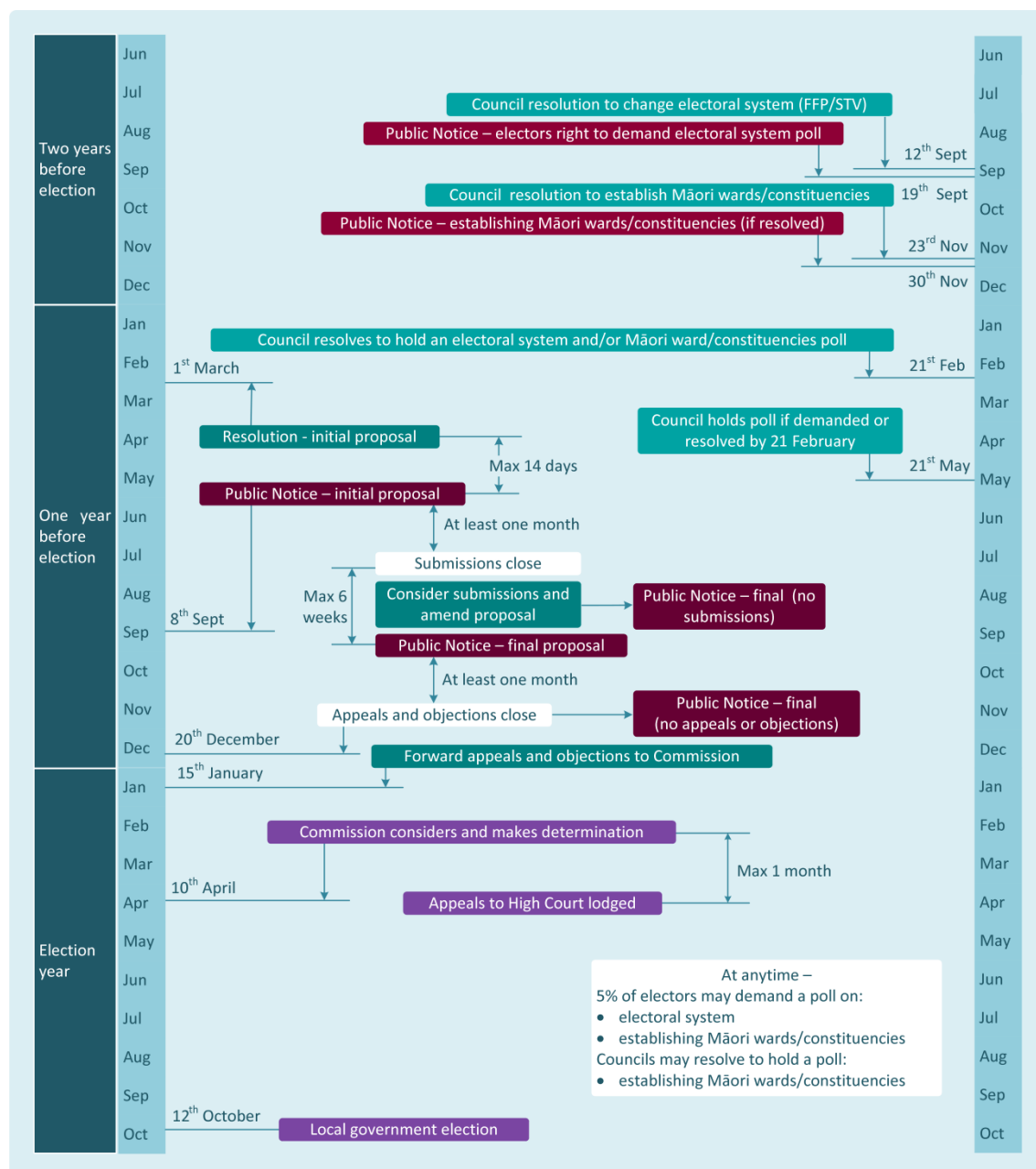


Figure 1: Timelines leading up to local government elections

## Appendix C: Basis of election

Basis of election (wards, at large, or a combination of both) only applies to territorial authorities. This appendix gives an overview of territorial authorities' basis of election since 1989.

At the 1989 elections, following the reorganisation of local government, the members of the Kaikoura and Kawerau District Councils were elected at large. All other territorial authority elections were conducted by wards.

At the 1992 elections, four further territorial authorities adopted the at large system: Upper Hutt City, Invercargill City, Nelson City, and the Chatham Islands. All remaining territorial authorities used wards as the basis of election for their members.

The basis of election of territorial authorities remained the same for the 1995, 1998 and 2001 elections with the exception of Napier City which adopted the at large system for the 1998 and subsequent elections.

For the 2004 elections, in addition to the above seven territorial authorities, the Commission upheld a proposal of the Wairoa District Council that the Council be elected at large. For these elections, the Commission also determined that the mixed system of representation would apply for the election of members to the Kapiti Coast District Council and the Tauranga City Council. The remaining 63 territorial authorities continued to use wards as the basis of election for members.

At the 2007 elections, the above eight territorial authorities with the exception of Napier City, conducted their election at large. In addition, as a result of appeals/objections, the Commission determined that the Wanganui District Council election would also be conducted at large. The Commission also determined that three further territorial authority elections (in addition to Tauranga City and Kapiti Coast District) would be conducted using a mixed system of representation. These were Napier City, Masterton District and Gore District Councils. The remaining 60 territorial authorities continued to use wards as the basis of election for members.

For the 2010 elections the Commission upheld the Rotorua District Council's proposal that it be elected at large. The newly constituted Auckland Council was elected from wards. The remaining 53 territorial authorities continued to use wards as the basis of election for members.

In 2013 the Commission determined that the Palmerston North City Council would be elected at large.

For the 2016 elections the Commission determined that the Dunedin City Council would be elected at large. This meant that for those elections:

- 51 territorial authorities were elected by wards
- 11 were elected at large
- 5 were elected by a mixed system.

The information outlined above is summarised in the following table.

Election	Councils adopting at large systems	Councils adopting mixed systems	Number of councils elected by wards
1989	Kaikoura District Kawerau District	-	72
1992	Chatham Islands Invercargill City Nelson City Upper Hutt City		68
1995			68
1998	Napier City (to 2007)		67
2001			67
2004	Wairoa District	Kapiti Coast District Tauranga City	64
2007	Whanganui District	Gore District Masterton District Napier City	60
2010	Rotorua District		53
2013	Palmerston North City		52
2016	Dunedin City		51

## Appendix D: Criteria for reorganisation schemes

(as prescribed in Subpart 2 of Part 1 of Schedule 3 of the *Local Government Act 2002*)

### **11 Commission to determine preferred option**

- (5) The Commission must be satisfied that any local authority proposed to be established or changed under a reasonably practicable option will—
- (a) have the resources necessary to enable it to carry out effectively its responsibilities, duties, and powers; and
  - (b) have a district or region that is appropriate for the efficient performance of its role as specified in section 11; and
  - (c) contain within its district or region 1 or more communities of interest, but only if they are distinct communities of interest; and
  - (d) in the case of a regional council or unitary authority, enable catchment-based flooding and water management issues to be dealt with effectively by the regional council or unitary authority.
- (6) For the purposes of subclause (5), the Commission must have regard to—
- (a) the area of impact of the responsibilities, duties, and powers of the local authorities concerned; and
  - (b) the area of benefit of services provided; and
  - (c) the likely effects on a local authority of the exclusion of any area from its district or region; and
  - (d) any other matters that it considers appropriate.

### **12 Promotion of good local government**

- (1) For the purposes of clause 11(8), the Commission must be satisfied that its preferred option—
- (a) will best promote, in the affected area, the purpose of local government as specified in section 10; and
  - (b) will facilitate, in the affected area, improved economic performance, which may (without limitation) include—
    - (i) efficiencies and cost savings; and
    - (ii) productivity improvements, both within the local authorities and for the businesses and households that interact with those local authorities; and

- (iii) simplified planning processes within and across the affected area through, for example, the integration of statutory plans or a reduction in the number of plans to be prepared or approved by a local authority.

## **19 Communities**

When preparing a draft proposal or (if clause 14(4) applies) a reorganisation scheme, the Commission may consider whether good local government of any affected district would be best promoted by—

- (a) a system of communities and the responsibilities, duties, and powers of the community boards in the district; or
- (b) an alternative to an existing system of communities; or
- (c) a change in the responsibilities, duties, and powers of the community boards in the district.

## Appendix E: Sample public notice – initial proposal

This example of a public notice for an initial representation proposal is intended to assist local authorities prepare public notices under section 19M of the *Local Electoral Act 2001*. A template is available on the Local Government Commission website [www.lgc.govt.nz](http://www.lgc.govt.nz).

### Nameless District Council

#### Initial proposal for representation arrangements for the 2019 local elections

On 28 August 2018 the Nameless District Council reviewed its representation arrangements, and resolved that the following proposal apply for the Council and its community boards for the elections to be held on 12 October 2019:

##### *Council Representation*

It is proposed that the Council comprise 10 members elected from five wards, and the mayor. The five wards reflect the following identified communities of interest:

Ward	Communities of interest
Brown Ward	brief geographic description of Brown Ward
Green Ward	brief geographic description of Green Ward
Yellow Ward	brief geographic description of Yellow Ward
Red Ward	brief geographic description of Red Ward
Blue Ward	brief geographic description of Blue Ward

The population that each member will represent is as follows:

Ward	Population (2013 census)	Members	Population per member
Brown Ward	8900	2	4450
Green Ward	11400	3	3800
Yellow Ward	3500	1	3500
Red Ward	8400	2	4200
Blue Ward	8800	2	4400
<b>Total</b>	<b>41000</b>	<b>10</b>	<b>4100</b>

In accordance with section 19V(2) of the *Local Electoral Act 2001* the population that each member represents must be within the range of 4100 +/- 10% (3690 to 4510), unless particular community of interest considerations justify otherwise.

Only the representation of the Yellow Ward falls outside the stipulated range. The Council considers that the Yellow Ward warrants a single member for the following reasons:

- reason 1 based on the considerations set out in section 19V(3)
- reason 2 based on the considerations set out in section 19V(3).

### ***Community Board Representation***

It is proposed that the following five community boards be elected:

Community Board	Area of Community
East Community Board	geographical description of the East Community Board
West Community Board	geographical description of the West Community Board
North Community Board	geographical description of the North Community Board
South-West Community Board	geographical description of the South-West Community Board
South-East Community Board	geographical description of the South-East Community Board

### ***East, West and North Community Boards***

The East, West, and North Community Boards will each elect five members. They will not be subdivided for electoral purposes. They will each have one appointed member as follows:

Community Board	Number of members from which ward
East Community Board	1 member appointed from the Brown Ward
West Community Board	1 member appointed from the Green Ward
North Community Board	1 member appointed from the Yellow Ward

### ***South-West Community Board***

The South-West Community Board will elect six members. One member will be appointed to the Board from the Red Ward.

The South-West Community Board will be subdivided for electoral purposes as follows:

Subdivision	Area of Subdivision
Hills Subdivision	geographical description of the Hills Subdivision
Valley Subdivision	geographical description of the Valley Subdivision

The population that the members of each subdivision will represent is shown below:

Subdivision	Population (2013 census)	Members	Population per member
Hills Subdivision	3200	2	1600
Valley Subdivision	5800	4	1450
<b>Total</b>	<b>9000</b>	<b>6</b>	<b>1500</b>

The population each member of the South-West Community Board represents falls within the range of 1500 +/-10% (1350 – 1650) in accordance with section 19V(2) of the Act.

### ***South-East Community Board***

The South-East Community Board will elect six members. One member will be appointed to the Board from the Blue Ward.

The South-East Community Board will have two subdivisions for electoral purposes as follows:

Subdivision	Area of Subdivision
Lakes Subdivision	geographical description of the Lakes Subdivision
Rivers Subdivision	geographical description of the Rivers Subdivision

The population that the members of each subdivision will represent is shown below:

Subdivision	Population (2013 census)	Members	Population per member
Lakes Subdivision	4200	3	1400
Rivers Subdivision	4000	3	1333
<b>Total</b>	<b>8200</b>	<b>6</b>	<b>1367</b>

The population each member of the South-East Community Board represents falls within the range of 1367 +/-10% (1230 - 1504) in accordance with section 19V(2) of the Act.

### ***Further Information***

Copies of the Council's resolution and maps setting out the areas of the proposed wards, communities and subdivisions may be viewed and obtained from

- Council Offices, 46 Main Street, Somewhere town.

Any queries regarding the Council's decision should be directed to Tāne Smith, 01 234 5678, extn 9876, [tane.smith@Somewhere.govt.nz](mailto:tane.smith@Somewhere.govt.nz).

Relevant information is also available on the Council's website [www.namelesscc.govt.nz](http://www.namelesscc.govt.nz).

***Submissions are invited***

Persons with an interest in the proposed representation arrangements are invited to make written submissions on the Council's representation proposal.

Submissions are to be forwarded to:

- Attention - Tāne Smith (01 234 5678, extn 9876)
- Physical address - Council Offices, 46 Main Street, Somewhere town.
- Email – [representation.review@somewhere.govt.nz](mailto:representation.review@somewhere.govt.nz)
- Fax - 01 234 9876.

Submissions must be received by Council no later than 8 October 2018.

Christine Jones  
Chief Executive  
4 September 2018

## Appendix F: Sample public notice – final proposal

This example of a public notice for a final representation proposal is intended to assist local authorities prepare public notices under section 19N of the *Local Electoral Act 2001*. A template is available on the Local Government Commission website [www.lgc.govt.nz](http://www.lgc.govt.nz).

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### Nameless District Council

#### Final proposal for representation arrangements for the 2019 local elections

##### *Submissions*

On 30 October 2018 the Nameless District Council considered the submissions received on its initial proposal regarding the representation arrangements for the Council and its constituent community boards to apply for the local elections to be held on 12 October 2019.

The Council received 12 submissions on its proposal. Seven submissions were in favour of the Council's proposal. Five submissions contained objections to various elements of the proposal, as follows:

- one submitter sought the division of the District into 6 wards, electing 12 members
- one submitter objected to the names of the wards, and to the boundaries of the wards
- one submitter considered that the boundary between the Yellow and Red Ward needs to be moved to York Street
- one submitter objected to the continued existence of community boards in the District
- one submitter considered that there only need to be two community boards – one for the Red Ward and one for the Blue Ward, reflecting the rural nature of those wards.

### ***Final proposal***

Having considered all of the objections, the Council resolved to adopt its initial proposal as the Council's final proposal, subject to the following amendments:

- the proposed "Brown" Ward be renamed as the "Purple" Ward
- the proposed "Green" Ward be renamed as the "Orange" Ward.

The Council considers that the name changes are appropriate for the following reasons:

- brief description of reason 1
- brief description of reason 2.

The Council rejected the other matters raised in objections for the following reasons:

- brief description of reason 3
- brief description of reason 4
- brief description of reason 5.

Therefore the final proposal is as follows.

### ***Council Representation***

It is proposed that the Council comprise 10 members elected from five wards, and the mayor. The five wards reflect the following identified communities of interest:

Ward	Communities of interest
Purple Ward	brief geographic description of Purple Ward
Orange Ward	brief geographic description of Orange Ward
Yellow Ward	brief geographic description of Yellow Ward
Red Ward	brief geographic description of Red Ward
Blue Ward	brief geographic description of Blue Ward

The population that each member will represent is as follows:

Ward	Population (2013 Census)	Members	Population per member
Purple Ward	8900	2	4450
Orange Ward	11400	3	3800
Yellow Ward	3500	1	3500
Red Ward	8400	2	4200
Blue Ward	8800	2	4400
<b>Total</b>	<b>41000</b>	<b>10</b>	<b>4100</b>

In accordance with section 19V(2) of the *Local Electoral Act 2001* the population that each member represents must be within the range of 4100 +/- 10% (3690 to 4510), unless particular community of interest considerations justify otherwise.

Only the representation of the Yellow Ward falls outside the stipulated range. The Council considers that the Yellow Ward warrants a single member for the following reasons:

- reason 1 based on the considerations set out in section 19V(3)
- reason 2 based on the considerations set out in section 19V(3).

### ***Community Board Representation***

It is proposed that five community boards be elected. The five community boards will be:

Community Board	Area of Community
East Community Board	geographical description of the East Community Board
West Community Board	geographical description of the West Community Board
North Community Board	geographical description of the North Community Board
South-West Community Board	geographical description of the South-West Community Board
South-East Community Board	geographical description of the South-East Community Board

### ***East, West and North Community Boards***

The East, West, and North Community Boards will each elect five members. They will not be subdivided for electoral purposes. They will each have one appointed member as follows:

Community Board	Number of members from which ward
East Community Board	1 member appointed from the Purple Ward
West Community Board	1 member appointed from the Orange Ward
North Community Board	1 member appointed from the Yellow Ward

### ***South-West Community Board***

The South-West Community Board will elect six members. One member will be appointed to the Board from the Red Ward.

The South-West Community Board will be subdivided for electoral purposes as follows:

Subdivision	Area of Subdivision
Hills Subdivision	geographical description of the Hills Subdivision
Valley Subdivision	geographical description of the Valley Subdivision

The population that the members of each subdivision will represent is shown below:

Subdivision	Population (2013 census)	Members	Population per member
Hills Subdivision	3200	2	1600
Valley Subdivision	5800	4	1450
<b>Total</b>	<b>9000</b>	<b>6</b>	<b>1500</b>

The population each member of the South-West Community Board represents falls within the range of 1500 +/-10% (1350 – 1650) in accordance with section 19V(2) of the Act.

### ***South-East Community Board***

The South-East Community Board will elect six members. One member will be appointed to the Board from the Blue Ward.

The South-East Community Board will have two subdivisions for electoral purposes as follows:

Subdivision	Area of Subdivision
Lakes Subdivision	geographical description of the Lakes Subdivision
Rivers Subdivision	geographical description of the Rivers Subdivision

The population that the members of each subdivision will represent is shown below:

Subdivision	Population (2013 census)	Members	Population per member
Lakes Subdivision	4200	3	1400
Rivers Subdivision	4000	3	1333
<b>Total</b>	<b>8200</b>	<b>6</b>	<b>1367</b>

The population each member of the South-East Community Board represents falls within the range of 1367 +/-10% (1230 - 1504) in accordance with section 19V(2) of the Act.

### ***Appeals and objections***

Any person who made a submission on the Council's initial proposal may lodge an appeal against the Council's decision. An appeal must relate to the matters raised in that person's submission.

*Any person who objects to the final proposal may lodge an objection to the Council's final proposal. Any objection must identify the matters to which the objection relates.*

Appeals [*and objections*] must be made in writing and must be received by Council no later than 11 December 2018.

Appeals [*and objections*] are to be forwarded to:

*Note: The references to objections in italics above should only be included where the final proposal is different to the initial proposal.*

Attention - Tāne Smith (01 234 5678, extn 9876)

- Physical address - Council Offices, 46 Main Street, Somewhere town.
- Email – [representation.review@somewhere.govt.nz](mailto:representation.review@somewhere.govt.nz)
- Fax - 01 234 9876.

### ***Further information***

Direct any queries regarding the Council's decision to Tāne Smith (contact details above).

Christine Jones  
Chief Executive  
6 November 2018

## Appendix G: Sample public notice – no submissions

This example of a public notice for the final representation arrangements is intended to assist local authorities prepare public notices under section 19Y(1) of the *Local Electoral Act 2001* where no submissions are received in respect of the initial proposal. A template is available on the Local Government Commission website [www.lgc.govt.nz](http://www.lgc.govt.nz).

### Nameless District Council

#### Final representation arrangements - 2019 local elections

On 28 August 2018 the Nameless District Council reviewed its representation arrangements, and resolved that the following proposal apply for the Council and its community boards for the elections to be held on 12 October 2019.

Submissions on the proposal were invited. As no submissions were received in respect of the proposal it becomes the basis of election for the Nameless District Council for the elections to be held on 12 October 2019.

#### Council Representation

The Council will comprise 10 members elected from five wards, and the mayor. The five wards reflect the following identified communities of interest:

Ward	Communities of interest
Brown Ward	brief geographic description of Brown Ward
Green Ward	brief geographic description of Green Ward
Yellow Ward	brief geographic description of Yellow Ward
Red Ward	brief geographic description of Red Ward
Blue Ward	brief geographic description of Blue Ward

The population that each member will represent is as follows:

Ward	Population (2013 census)	Members	Population per member
Brown Ward	8900	2	4450
Green Ward	11400	3	3800
Yellow Ward	3500	1	3500
Red Ward	8400	2	4200
Blue Ward	8800	2	4400
<b>Total</b>	<b>41000</b>	<b>10</b>	<b>4100</b>

In accordance with section 19V(2) of the *Local Electoral Act 2001* the population that each member represents must be within the range of 4100 +/- 10% (3690 to 4510), unless particular community of interest considerations justify otherwise.

Only the representation of the Yellow Ward falls outside the stipulated range. The Council considers that the Yellow Ward warrants a single member for the following reasons:

- reason 1 based on the considerations set out in section 19V(3)
- reason 2 based on the considerations set out in section 19V(3).

### ***Community Board Representation***

Five community boards will be elected. The five community boards will be:

Community Board	Area of Community
East Community Board	geographical description of the East Community Board
West Community Board	geographical description of the West Community Board
North Community Board	geographical description of the North Community Board
South-West Community Board	geographical description of the South-West Community Board
South-East Community Board	geographical description of the South-East Community Board

### ***East, West and North Community Boards***

The East, West, and North Community Boards will each elect five members. They will not be subdivided for electoral purposes. They will each have one appointed member as follows:

Community Board	Number of members from which ward
East Community Board	1 member appointed from the Purple Ward
West Community Board	1 member appointed from the Orange Ward
North Community Board	1 member appointed from the Yellow Ward

### ***South-West Community Board***

The South-West Community Board will elect six members. One member will be appointed to the Board from the Red Ward.

The South-West Community Board will be subdivided for electoral purposes as follows:

Subdivision	Area of Subdivision
Hills Subdivision	geographical description of the Hills Subdivision
Valley Subdivision	geographical description of the Valley Subdivision

The population that the members of each subdivision will represent is shown below:

Subdivision	Population (2013 census)	Members	Population per member
Hills Subdivision	3200	2	1600
Valley Subdivision	5800	4	1450
<b>Total</b>	<b>9000</b>	<b>6</b>	<b>1500</b>

The population each member of the South-West Community Board represents falls within the range of 1500 +/-10% (1350 – 1650) in accordance with section 19V(2) of the Act.

### **South-East Community Board**

The South-East Community Board will elect six members. One member will be appointed to the Board from the Blue Ward.

The South-East Community Board will have two subdivisions for electoral purposes as follows:

Subdivision	Area of Subdivision
Lakes Subdivision	geographical description of the Lakes Subdivision
Rivers Subdivision	geographical description of the Rivers Subdivision

The population that the members of each subdivision will represent is shown below:

Subdivision	Population (2013 census)	Members	Population per member
Lakes Subdivision	4200	3	1400
Rivers Subdivision	4000	3	1333
<b>Total</b>	<b>8200</b>	<b>6</b>	<b>1367</b>

The population each member of the South-East Community Board represents falls within the range of 1367 +/-10% (1230 - 1504) in accordance with section 19V(2) of the Act.

### **Further information**

Any queries regarding the Council's decision should be directed to:

- Tāne Smith (01 234 5678, extn 9876)
- Physical address - Council Offices, 46 Main Street, Somewhere town.
- Email – [representation.review@somewhere.govt.nz](mailto:representation.review@somewhere.govt.nz)
- Fax - 01 234 9876.

Christine Jones  
Chief Executive  
6 November 2018

## Appendix H: Sample public notice – no appeals or objections

This example of a public notice for the final representation arrangements is intended to assist local authorities prepare public notices under section 19Y(1) of the *Local Electoral Act 2001* where no appeals or objections are received in respect of the final proposal. A template is available on the Local Government Commission website [www.lgc.govt.nz](http://www.lgc.govt.nz).

### Nameless District Council

#### Final representation arrangements - 2019 local elections

On 6 November 2018 the Nameless District Council gave public notice of its final proposal for representation arrangements to apply for the Council and its community boards for the elections to be held on 12 October 2019. Notification of the right to appeal or object was also given. No appeals or objections were received in respect of the resolution, therefore the representation arrangements for the Nameless District Council's 2019 local elections will be the same as in the final proposal:

#### *Council Representation*

The Council will comprise 10 members elected from five wards, and the mayor. The five wards reflect the following identified communities of interest:

Ward	Communities of interest
Purple Ward	brief geographic description of Purple Ward
Orange Ward	brief geographic description of Orange Ward
Yellow Ward	brief geographic description of Yellow Ward
Red Ward	brief geographic description of Red Ward
Blue Ward	brief geographic description of Blue Ward

The population that each member will represent is as follows:

Ward	Population (2013 census)	Members	Population per member
Purple Ward	8900	2	4450
Orange Ward	11400	3	3800
Yellow Ward	3500	1	3500
Red Ward	8400	2	4200
Blue Ward	8800	2	4400
<b>Total</b>	<b>41000</b>	<b>10</b>	<b>4100</b>

In accordance with section 19V(2) of the *Local Electoral Act 2001* the population that each member represents must be within the range of 4100 +/- 10% (3690 to 4510), unless particular community of interest considerations justify otherwise.

Only the representation of the Yellow Ward falls outside the stipulated range. The Council considers that the Yellow Ward warrants a single member for the following reasons:

- reason 1 based on the considerations set out in section 19V(3)
- reason 2 based on the considerations set out in section 19V(3).

### ***Community Board Representation***

Five community boards will be elected. The five community boards will be:

Community Board	Area of Community
East Community Board	geographical description of the East Community Board
West Community Board	geographical description of the West Community Board
North Community Board	geographical description of the North Community Board
South-West Community Board	geographical description of the South-West Community Board
South-East Community Board	geographical description of the South-East Community Board

The East, West, and North Community Boards will each elect five members. They will not be subdivided for electoral purposes. They will each have one appointed member as follows:

Community Board	Number of members from which ward
East Community Board	1 member appointed from the Brown Ward
West Community Board	1 member appointed from the Green Ward
North Community Board	1 member appointed from the Yellow Ward

### ***South-West Community Board***

The South-West Community Board will elect six members. One member will be appointed to the Board from the Red Ward.

The South-West Community Board will be subdivided for electoral purposes as follows:

Subdivision	Area of Subdivision
Hills Subdivision	geographical description of the Hills Subdivision
Valley Subdivision	geographical description of the Valley Subdivision

The population that the members of each subdivision will represent is shown below:

Subdivision	Population (2013 census)	Members	Population per member
Hills Subdivision	3200	2	1600
Valley Subdivision	5800	4	1450
<b>Total</b>	<b>9000</b>	<b>6</b>	<b>1500</b>

The population each member of the South-West Community Board represents falls within the range of 1500 +/-10% (1350 – 1650) in accordance with section 19V(2) of the Act.

### **South-East Community Board**

The South-East Community Board will elect six members. One member will be appointed to the Board from the Blue Ward.

The South-East Community Board will have two subdivisions for electoral purposes as follows:

Subdivision	Area of Subdivision
Lakes Subdivision	geographical description of the Lakes Subdivision
Rivers Subdivision	geographical description of the Rivers Subdivision

The population that the members of each subdivision will represent is shown below:

Subdivision	Population (2013 census)	Members	Population per member
Lakes Subdivision	4200	3	1400
Rivers Subdivision	4000	3	1333
<b>Total</b>	<b>8200</b>	<b>6</b>	<b>1367</b>

The population each member of the South-East Community Board represents falls within the range of 1367 +/-10% (1230 - 1504) in accordance with section 19V(2) of the Act.

### **Further information**

Any queries regarding the Council's decision should be directed to:

- Tāne Smith (01 234 5678, extn 9876)
- Physical address - Council Offices, 46 Main Street, Somewhere town.
- Email – [representation.review@somewhere.govt.nz](mailto:representation.review@somewhere.govt.nz)
- Fax - 01 234 9876.

Chris Jones  
Chief Executive  
18 December 2018

## Appendix I: Appeals and objections hearing processes

A standard set of processes applies when the Commission decides to hear the appeals and objections lodged against a local authority's representation proposal.

### Preliminary organisation

First the Commission will propose a date for the hearing. The local authority will then be advised of the proposed hearing date and venue arrangements. Hearings are usually held in local authority premises.

When the hearing date and venue arrangements are finalised, all parties (the local authority, appellants, and objectors) will be notified. Appellants and objectors will be contacted to ascertain whether they wish to appear before the Commission. There is no obligation for appellants and objectors to appear before the Commission – those who decide not to appear can be assured that the Commission will give their written appeals or objections full consideration.

The Commission may also decide to invite to the hearing

- people who made submissions to the local authority in support of its proposal
- other people who might be able to provide relevant information to the Commission, e.g. representatives of community boards when they have not lodged an appeal or objection

Once appellants and objectors have responded to the Commission regarding the opportunity to appear, the hearing schedule will be finalised, and each party will receive written advice of the time and venue for their appearance. Each party needs to plan to be at the hearing venue at least 10 minutes before the allocated speaking time.

A copy of the briefing prepared for the Commission by the Commission's officers will be provided to those appearing at the hearing.

### The hearing

Each hearing follows a standard sequence:

1. Introduction from the Commission Chair.
2. Outline of its proposal by local authority.
3. Representations from appellants and objectors – each will have the opportunity to speak to the matters raised in their appeal or objection.
4. Representations from invited parties outlining basis of support for the local authority proposal or to answer questions from the Commission
5. Exercise of right of reply of local authority to matters raised in the hearing.

6. The Commission reserves its determination.

Commissioners may ask questions of each party during the course of their appearance.

As a general guide, the local authority is allocated up to 30 minutes to outline its proposal, and appellants and objectors up to 10 minutes to speak to the matters raised in their written appeal or objection. If an appellant or objector considers that more time is needed to speak to their appeal or objection then a request for additional time needs to be made to the Commission well before the hearing – each request will be considered on a case-by-case basis.

If any party wishes to table new written material at the hearing, this information needs to be provided to the Commission at the time that the party appears before the Commission. Six copies of the written material are required – five copies for the Commission and one copy for the local authority.

Hearings are generally kept as informal as possible and are open to the public and the news media. Many people appearing before the Commission will not have experience in presenting submissions, and the Commission endeavours to foster an environment in which people can feel comfortable.

## Appendix J: Minor boundary alterations, Section 218, *Resource Management Act 1991*

(2) In this Act, the term allotment means—

- (a) any parcel of land under the Land Transfer Act 1952 that is a continuous area and whose boundaries are shown separately on a survey plan, whether or not—
  - (i) the subdivision shown on the survey plan has been allowed, or subdivision approval has been granted, under another Act; or
  - (ii) a subdivision consent for the subdivision shown on the survey plan has been granted under this Act; or
- (b) any parcel of land or building or part of a building that is shown or identified separately—
  - (i) on a survey plan; or
  - (ii) on a licence within the meaning of Part 7A of the Land Transfer Act 1952; or
- (c) any unit on a unit plan; or
- (d) any parcel of land not subject to the Land Transfer Act 1952.

(3) For the purposes of subsection (2), an allotment that is—

- (a) subject to the Land Transfer Act 1952 and is comprised in 1 certificate of title or for which 1 certificate of title could be issued under that Act; or
- (b) not subject to that Act and was acquired by its owner under 1 instrument of conveyance—  
shall be deemed to be a continuous area of land notwithstanding that part of it is physically separated from any other part by a road or in any other manner whatsoever, unless the division of the allotment into such parts has been allowed by a subdivision consent granted under this Act or by a subdivisional approval under any former enactment relating to the subdivision of land.

(4) For the purposes of subsection (2), the balance of any land from which any allotment is being or has been subdivided is deemed to be an allotment.





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