



**AGENDA FOR THE INAUGURAL MEETING
OF THE
REPRESENTATION REVIEW SUBCOMMITTEE**

**TO BE HELD IN THE
COUNCIL CHAMBERS
SELWYN DISTRICT COUNCIL, ROLLESTON
ON WEDNESDAY 19 AUGUST 2020
COMMENCING AT 8.30AM**

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REPRESENTATION REVIEW SUBCOMMITTEE
TO BE HELD IN THE COUNCIL CHAMBERS,
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ON WEDNESDAY 19 AUGUST 2020 COMMENCING AT 8.30AM**

MEMBERS

Mayor S T Broughton, Councillors M A Alexander, S Epiha, J A Gallagher and G S Miller, and J B Morten (Malvern Community Board Chair)

APOLOGIES

CONFLICTS OF INTEREST

APPOINTMENT OF CHAIR AND DEPUTY CHAIR

1. **Chief Executive**
Election of the Chair and Deputy Chair of the Representation Review Subcommittee

Recommendation:

‘That the Representation Review Subcommittee

(a) elects _____ as the Chair; and

(b) elects _____ as the Deputy Chair.’

REPORTS

1. **Chief Executive (Pages 4 - 37)**
Representation Review – Procedural Requirements

Recommendation:

‘That the Representation Review – Procedural Requirements report be received for information.’

2. Chief Executive (Pages 38 - 131)
Adoption of the Terms of Reference

Recommendation:

‘That the Representation Review Subcommittee adopt the Terms of Reference.’

3. Deputy Electoral Officer (Pages 132 - 157)
Choosing of an Electoral System

Recommendation:

‘That the Representation Review Subcommittee recommends to Council to resolve to confirm continued use of First Past the Post (FPP) for the 2022 and 2025 local government triennial elections.’

4. Deputy Electoral Officer (Pages 158 - 169)
Consideration Of Establishing Māori Wards Or Constituencies

Recommendation:

‘That the Representation Review Subcommittee recommends to Council to resolve that no Māori Ward be established for the 2022 and 2025 local government triennial elections.’

REPORT

TO: Representation Review Subcommittee

FOR: Inaugural Meeting – 19 August 2020

FROM: Chief Executive Officer

DATE: 10 August 2020

SUBJECT: REPRESENTATION REVIEW – PROCEDURAL REQUIREMENTS

RECOMMENDATION

‘That the Chief Executive’s report ‘Representation Review – Procedural Requirements’ be received for information.’

1. PURPOSE

This report has been prepared to provide procedural advice to members of the Representation Review Subcommittee in regard to matters that Council are statutorily required to undertake during its forthcoming representation review.

2. BACKGROUND

It is a statutory requirement that local authorities undertake a representation review each six year period. Selwyn District Council last undertook a review during the 2015 calendar year in preparation for the 2016 elections.

The processes with respect to representation arrangements, procedural steps and timelines are clearly identified in section 19 of the Local Electoral Act 2001.

To assist Subcommittee members in their detailed understanding of the statutory requirements, section 19 (Part 1A) of the Local Electoral Act 2001 is *attached* as Appendix One to this report.

Attached as Appendix Two is a diagram setting out the Representation Review process.

3. MATTERS TO CONSIDER

a) Choosing an Electoral System

The Local Electoral Act 2001 provides the local authorities and their communities to choose either of the following as their electoral system:

- (i) First past the post; or
- (ii) Single transferable vote

The chosen electoral system also applies to the election of members of any community boards.

b) Maori Wards and Constituencies

- (i) The Local Electoral Act 2001 provides that Maori wards (territorial authorities) or constituencies (regional councils) may be established. The statutory provisions for establishing Maori wards/constituencies are set out in sections 19Z to 19ZH of the Local Electoral Act 2001
- (ii) Establishing Maori 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

Refer Appendix One for relevant sections of the Local Electoral Act.

c) Fair And Effective Representation

In reviewing our representation arrangements we must provide for effective representation of communities and their interests and fair representation of electors. Three key factors we must consider are:

- Communities of interest
- Effective representation of communities of interest
- Fair representation of electors

The word 'community of interest' is not given legal definition and may be open to interpretation. Defining local communities of interest is an essential part of the representation review process and must be carried out before determining how we propose to provide effective representation.

The guidance document prepared by the Local Government Commission refers to communities of interest in a three dimensional manner:

- Perceptual
- Functional
- Political

d) Effective Representation of Communities of Interest

Factors that we will include in considering effective representation of our communities includes size, nature and diversity of the District. Where practical, we will consider the following factors:

- The avoidance of arrangements that may create barriers to participation, eg. not recognising residents familiarity and identity with an area during elections
- Not splitting recognised communities of interest between electoral sub-divisions
- Not grouping together two or more communities that have few common interests
- The population's reasonable access to its elected members
- The elected members' ability to effectively represent the views of their elected area

e) Fair Representation of Electors

In completing its assessment of the boundaries that we will propose, the Local Government Commission is required to ensure that the population of each ward, divided by the number of members to be elected by their ward, produces a figure no more than 10% greater or smaller than the population of the district, divided by the total of elected members.

Updated compiling mesh block data will be available in January 2021.

f) Reviewing Community Boards

Within this review process we must consider whether community boards are appropriate to provide fair and effective representation for individuals and communities within our District.

When carrying out this review, we are required to consider whether there needs to be community boards within our District and the nature of structure of those boards.

g) Consultation

Whilst the Local Electoral Act 2001 quite specifically sets out the consultation process we are required to undertake, we may well give thought to a preliminary consultation process. This could include community surveys, discussion documents, focus groups or engagement with recognised citizens and organisations.

In giving thought to this matter, we will be mindful of responses to the previous representation review, the change in population since that time and any views that may have been publicly aired by individuals or organisations in recent times.

Preliminary consultation does not substitute the formal statutory steps.

h) Effective Representation for Communities of Interest

Having identified the communities of interest within the District we will then need to consider whether effective representation is best achieved by way of elections held at large, wards, or a mixture of both. As part of this exercise we will consider:

- Accessibility, size and configuration of the District
- The existence of community boards
- The electoral system
- Any Maori wards
- Single versus multi-member wards
- The wider 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 communities of interest

4. NEXT STEPS

As indicated at the commencement of this paper, the purpose of today's meeting is for Subcommittee members to gain further understanding of the process that Council is statutorily bound to follow in a representation review process, together with the applicable timeframes by which work must be undertaken.

At today's meeting staff will be providing guidance on these required statutory processes and will be answering questions on procedure that we will be following.

5. MEETING TIMEFRAMES

A meeting schedule will be prepared following today's meeting, having gained thoughts from Subcommittee members on consultation/pre-consultation and the view of the Subcommittee on any proposed changes that we may wish to consider to the current electoral system.



David Ward
CHIEF EXECUTIVE

Part 1A

Representation arrangements for elections of territorial authorities, regional councils, local boards, and community boards

Part 1A: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Part 1A heading: amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

19A Membership of territorial authorities

Every governing body of a territorial authority is to consist of not fewer than 6 members nor more than 30 members, including the mayor, who are the members of the territorial authority.

Compare: 1974 No 66 s 101C

Section 19A: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19B Basis of election of mayor of territorial authority

- (1) The mayor of a territorial authority is to be elected by the electors of the district as a whole.
- (2) The election of the mayor is to be held at the same time as the general election of the other members of the territorial authority.

Section 19B: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19C Basis of election of members of territorial authority

- (1) A district of a territorial authority may be divided into wards for electoral purposes.
- (2) If a district is divided into wards, some of the members of the territorial authority may be elected by the electors of the district as a whole, but, in that case, the other members of the territorial authority must be elected by the electors of each ward of the district.
- (3) Each ward must elect at least 1 member of the territorial authority.
- (4) If a district is not divided into wards, the members of the territorial authority must be elected by the electors of the district as a whole.
- (5) If a district is divided into wards, each member of the territorial authority representing a ward must be elected by the electors of that ward.

Compare: 1974 No 66 ss 101D(1), (3), 101E(1), (3), (4)

Section 19C: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19D Membership of regional councils

Every governing body of a regional council is to consist of not fewer than 6 members nor more than 14 members, who are the members of the regional council.

Compare: 1974 No 66 s 101CA

Section 19D: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19E Basis of election of members of regional council

- (1) A region must be divided into constituencies for electoral purposes.
- (2) The members of a regional council must be elected by the electors of each constituency of the region.
- (3) The members of a regional council may not be elected partly by the electors of the region and partly by the electors of each constituency of the region.
- (4) Each constituency must elect at least 1 member of the regional council.
- (5) The members of the regional council representing the respective constituencies of the region must be elected by the electors of those constituencies respectively.

Compare: 1974 No 66 ss 101D(2), (3), 101E(1), (2)

Section 19E: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19EA Membership of local boards

- (1) Every local board—
 - (a) must consist of not fewer than 5 members nor more than 12 members, including the chairperson; and
 - (b) must include at least 5 elected members; and
 - (c) may, if an Order in Council under section 25 of the Local Government Act 2002 so provides, include 1 or more appointed members.
- (2) The maximum number of members appointed under subsection (1)(c) must be less than half the total number of members.
- (3) The persons who are appointed under subsection (1)(c) as members of the local board must—
 - (a) be members of, and must be appointed by, the governing body for the district in which the local board area is situated; and
 - (b) be members of the governing body representing a ward that is wholly or predominantly within the local board area.

Section 19EA: inserted, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

19EB Basis of election of chairperson of local board in certain circumstances

- (1) This section applies if an Order in Council under section 25 of the Local Government Act 2002 provides that the chairperson of a local board is to be directly elected to that office.
- (2) If this section applies, the chairperson of the local board is to be elected by the electors of the local board area as a whole.
- (3) An election under subsection (2) is to be held at the same time as the general election of the other members of the local board.

Section 19EB: inserted, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

19EC Basis of election of members of local board

- (1) A local board area may be subdivided for electoral purposes.
- (2) Each subdivision must elect at least 1 member of the local board.
- (3) If a local board area comprises 2 or more whole wards, the elected members of the local board may be elected by the electors of each ward.
- (4) If the local board area is not subdivided for electoral purposes, the members of the local board must, unless they are to be elected in accordance with subsection (3), be elected by the electors of the local board area as a whole.
- (5) If a local board area is subdivided for electoral purposes or if the members of the local board are to be elected in accordance with subsection (3),—
 - (a) each member of the local board who represents a subdivision must be elected by the electors of that subdivision; and
 - (b) each member of the local board who represents a ward must be elected by the electors of that ward.

Section 19EC: inserted, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

19F Membership of community boards

- (1) Every community board—
 - (a) is to consist of not fewer than 4 members nor more than 12 members; and
 - (b) is to include at least 4 elected members; and
 - (c) may include appointed members.
- (2) The number of appointed members is to be less than half the total number of members.
- (3) The persons who are appointed under subsection (1)(c) as members of the community board must—
 - (a) be members of, and must be appointed by, the territorial authority for the district in respect of which the community is constituted; and

- (b) if the territorial authority is divided into wards, also be members of the territorial authority representing a ward in which the community is situated.

Compare: 1974 No 66 s 101ZQ(1), (2), (5)

Section 19F: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19G Basis of election of members of community board

- (1) The part of a district in respect of which a community is constituted may be subdivided for electoral purposes.
- (2) Each subdivision must elect at least 1 member of the community board.
- (3) If a community comprises 2 or more whole wards, the elected members of the community board may be elected by the electors of each ward.
- (4) If the community is not subdivided for electoral purposes, the members of the community board must, unless they are to be elected in accordance with subsection (3), be elected by the electors of the community as a whole.
- (5) If a community is subdivided for electoral purposes or if the members of the community board are to be elected in accordance with subsection (3),—
 - (a) each member of the community board who represents a subdivision must be elected by the electors of the subdivision; and
 - (b) each member of the community board who represents a ward must be elected by the electors of that ward.

Compare: 1974 No 66 s 101E(5)

Section 19G: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19H Review of representation arrangements for elections of territorial authorities

- (1) A territorial authority must determine by resolution, and in accordance with this Part,—
 - (a) whether the members of the territorial authority (other than the mayor) are proposed to be elected—
 - (i) by the electors of the district as a whole; or
 - (ii) by the electors of 2 or more wards; or
 - (iii) in some cases by the electors of the district as a whole and in the other cases by the electors of each ward of the district; and
 - (b) in any case to which paragraph (a)(i) applies, the proposed number of members to be elected by the electors of the district as a whole; and
 - (c) in any case to which paragraph (a)(iii) applies,—
 - (i) the proposed number of members to be elected by the electors of the district as a whole; and

- (ii) the proposed number of members to be elected by the wards of the district; and
 - (d) in any case to which paragraph (a)(ii) or paragraph (a)(iii) applies,—
 - (i) the proposed name and the proposed boundaries of each ward; and
 - (ii) the number of members proposed to be elected by the electors of each ward; and
 - (e) the proposed number of elected members of any local board and, if an Order in Council under section 25 of the Local Government Act 2002 so provides, the proposed number of appointed members of that board; and
 - (f) whether the elected members of any local board are proposed to be elected—
 - (i) by the electors of the local board area as a whole; or
 - (ii) by the electors of 2 or more subdivisions of the local board area; or
 - (iii) if the local board area comprises 2 or more wards, by the electors of each ward; and
 - (g) in any case to which paragraph (f)(ii) applies,—
 - (i) the proposed name and the proposed boundaries of each subdivision; and
 - (ii) the number of members proposed to be elected by the electors of each subdivision; and
 - (h) in any case to which paragraph (f)(iii) applies, the number of members of the local board proposed to be elected by the electors of each ward; and
 - (i) the proposed name of any local board.
- (2) The determination required by subsection (1) must be made by a territorial authority,—
- (a) on the first occasion, either in 2003 or in 2006; and
 - (b) subsequently, at least once in every period of 6 years after the year in which the first determination was made.
- (2A) To avoid doubt, subsection (2) is subject to sections 19K(1AA) and 19M(1).
- (3) This section must be read in conjunction with section 19ZH and Schedule 1A.

Compare: 1974 No 66 s 101H(1)

Section 19H: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19H(1)(d)(ii): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 19H(1)(e): inserted, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 19H(1)(f): inserted, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 19H(1)(g): inserted, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 19H(1)(h): inserted, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 19H(1)(i): inserted, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 19H(2)(b): replaced, on 29 June 2013, by section 6(1) of the Local Electoral Amendment Act 2013 (2013 No 40).

Section 19H(2A): inserted, on 29 June 2013, by section 6(2) of the Local Electoral Amendment Act 2013 (2013 No 40).

19I Review of representation arrangements for elections of regional councils

- (1) A regional council must determine by resolution, and in accordance with this Part,—
 - (a) the proposed number of constituencies; and
 - (b) the proposed name and the proposed boundaries of each constituency; and
 - (c) the number of members proposed to be elected by the electors of each constituency.
- (2) The determination required by subsection (1) must be made by the regional council,—
 - (a) on the first occasion, either in 2003 or in 2006; and
 - (b) subsequently, at least once in every period of 6 years after the year in which the first determination was made.
- (2A) To avoid doubt, subsection (2) is subject to sections 19K(1AA) and 19M(1).
- (3) This section must be read in conjunction with section 19ZH and Schedule 1A.

Compare: 1974 No 66 s 101H(2)

Section 19I: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19I(2)(b): replaced, on 29 June 2013, by section 7(1) of the Local Electoral Amendment Act 2013 (2013 No 40).

Section 19I(2A): inserted, on 29 June 2013, by section 7(2) of the Local Electoral Amendment Act 2013 (2013 No 40).

19J Review of community boards

- (1) A territorial authority must, on every occasion on which it passes a resolution under section 19H, determine by that resolution, and in accordance with this Part, not only the matters referred to in that section but also whether, in light of the principle set out in section 4(1)(a) (which relates to fair and effective representation for individuals and communities),—
 - (a) there should be communities and community boards; and

- (b) if so resolved, the nature of any community and the structure of any community board.
- (2) The resolution referred to in subsection (1) must, in particular, determine—
 - (a) whether 1 or more communities should be constituted:
 - (b) whether any community should be abolished or united with another community:
 - (c) whether the boundaries of a community should be altered:
 - (d) whether a community should be subdivided for electoral purposes or whether it should continue to be subdivided for electoral purposes, as the case may require:
 - (e) whether the boundaries of any subdivision should be altered:
 - (f) the number of members of any community board:
 - (g) the number of members of a community board who should be elected and the number of members of a community board who should be appointed:
 - (h) whether the members of a community board who are proposed to be elected are to be elected—
 - (i) by the electors of the community as a whole; or
 - (ii) by the electors of 2 or more subdivisions; or
 - (iii) if the community comprises 2 or more whole wards, by the electors of each ward:
 - (i) in any case to which paragraph (h)(ii) applies,—
 - (i) the proposed name and the proposed boundaries of each subdivision; and
 - (ii) the number of members proposed to be elected by the electors of each subdivision.
- (3) Nothing in this section limits the provisions of section 19F.

Compare: 1974 No 66 s 101ZR(3)

Section 19J: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19JA Minor alterations to boundaries by territorial authority

- (1) A territorial authority may, in accordance with this section, determine by resolution new proposed boundaries of wards, communities, or subdivisions of local board areas or communities of the district of the territorial authority.
- (2) The territorial authority must be satisfied that,—
 - (a) since the existing boundaries of the wards, communities, or subdivisions of local board areas or communities took effect as the basis for election

- at the last triennial general election, there have been changes at or near those boundaries to the boundaries of 1 or more allotments; and
- (b) the proposed boundaries of the wards, communities, or subdivisions constitute only minor alterations to the existing boundaries; and
 - (c) the minor alterations will maintain the effective representation of communities of interest affected by the changes to the boundaries of the allotments; and
 - (d) so far as is practicable, the proposed boundaries of the wards, communities, or subdivisions coincide with the boundaries of allotments; and
 - (e) so far as is practicable, ward boundaries coincide with community boundaries (if applicable).
- (3) Every meeting at which the territorial authority deliberates on the proposals contained in the resolution must be open to the public, except as provided by Part 7 of the Local Government Official Information and Meetings Act 1987.
 - (4) The territorial authority must refer the resolution to the Commission, together with the information concerning the communities of interest and population of the district or local board area or community, and the proposed wards, communities, or subdivisions, that is held by the territorial authority and is necessary for the purposes of subsection (6).
 - (5) However, the territorial authority must not refer the resolution and information to the Commission after 15 January in the year of a triennial general election.
 - (6) On receiving the reference, the Commission must—
 - (a) consider the resolution and information forwarded to it; and
 - (b) determine whether to uphold the proposed boundaries of the wards, communities, or subdivisions.
 - (7) For the purposes of making its determination, the Commission may make any inquiries that it considers appropriate.
 - (8) The Commission may determine to uphold the proposed boundaries only if it is satisfied of the matters specified in subsection (2).
 - (9) The Commission must make its determination under subsection (6)(b) before 11 April in the year of the next triennial general election.
 - (10) Section 19S applies to the Commission's determination as if it were made under section 19R(1)(b), and section 19Y(3) to (6) apply with any necessary modifications.
 - (11) A territorial authority must not use this section if the territorial authority—
 - (a) is required to make a resolution under section 19H before the next triennial general election; or
 - (b) has, since the last triennial general election, made a resolution under section 19H; or

- (c) has, since the last triennial general election, already made a resolution under this section that was upheld by the Commission under subsection (6)(b).

Section 19JA: inserted, on 29 June 2013, by section 8 of the Local Electoral Amendment Act 2013 (2013 No 40).

Section 19JA(1): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 19JA(2)(a): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 19JA(4): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

19JB Minor alterations to boundaries by regional council

- (1) A regional council may, in accordance with this section, determine by resolution new proposed boundaries of constituencies of the region of the regional council.
- (2) The regional council must be satisfied that,—
 - (a) since the existing boundaries of the constituencies took effect as the basis for election at the last triennial general election, there have been changes at or near those boundaries to the boundaries of 1 or more allotments; and
 - (b) the proposed boundaries of the constituencies constitute only minor alterations to the existing boundaries; and
 - (c) the minor alterations will maintain the effective representation of communities of interest affected by the changes to the boundaries of the allotments; and
 - (d) so far as is practicable, the proposed boundaries of the constituencies coincide with the boundaries of allotments; and
 - (e) so far as is practicable, constituency boundaries coincide with the boundaries of 1 or more territorial authority districts or the boundaries of wards.
- (3) Every meeting at which the regional council deliberates on the proposals contained in the resolution must be open to the public, except as provided by Part 7 of the Local Government Official Information and Meetings Act 1987.
- (4) The regional council must refer the resolution to the Commission, together with the information concerning the communities of interest and population of the region, and the proposed constituencies, that is held by the regional council and is necessary for the purposes of subsection (6).
- (5) However, the regional council must not refer the resolution and information to the Commission after 15 January in the year of a triennial general election.
- (6) On receiving the reference, the Commission must—
 - (a) consider the resolution and information forwarded to it; and

- (b) determine whether to uphold the proposed boundaries of the constituencies.
- (7) For the purposes of making its determination, the Commission may make any inquiries that it considers appropriate.
- (8) The Commission may determine to uphold the proposed boundaries only if it is satisfied of the matters specified in subsection (2).
- (9) The Commission must make its determination under subsection (6)(b) before 11 April in the year of the next triennial general election.
- (10) Section 19S applies to the Commission's determination as if it were made under section 19R(1)(b), and section 19Y(3) to (6) apply with any necessary modifications.
- (11) A regional council must not use this section if the regional council—
 - (a) is required to make a resolution under section 19I before the next triennial general election; or
 - (b) has, since the last triennial general election, made a resolution under section 19I; or
 - (c) has, since the last triennial general election, already made a resolution under this section that was upheld by the Commission under subsection (6)(b).

Section 19JB: inserted, on 29 June 2013, by section 8 of the Local Electoral Amendment Act 2013 (2013 No 40).

19K Requirements for resolution

- (1AA) A resolution under section 19H, 19I, or 19J that affects the next triennial general election of members of a territorial authority, regional council, local board, or community board must be passed no earlier than 1 March of the year before the year of the election.
- (1) Every resolution specified in subsection (3) must include or be accompanied by a description of each proposed ward, constituency, community, or subdivision, and its proposed boundaries, so as to make each proposed ward, constituency, community, or subdivision readily identifiable to the public.
- (2) If any resolution under section 19H or section 19I or section 19J proposes any change to the basis of election, membership, or ward, constituency, community, or subdivision boundaries which applied at the last triennial general election of members of the territorial authority, regional council, local board, or community board, that resolution must include an explanation of the reasons for the proposed change.
- (3) Subsection (1) applies to every resolution under section 19H(1)(a)(ii) or section 19H(1)(a)(iii) or section 19H(1)(g) or section 19I(1) or section 19J(2)(a) or

section 19J(2)(b) or section 19J(2)(c) or section 19J(2)(d) or section 19J(2)(e) or section 19J(2)(h)(iii).

Compare: 1974 No 66 s 101H(3), (4)

Section 19K: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19K(1AA): inserted, on 29 June 2013, by section 9 of the Local Electoral Amendment Act 2013 (2013 No 40).

Section 19K(1AA): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 19K(2): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 19K(3): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

19L Distribution of copies of resolution

If a territorial authority or regional council makes a resolution under section 19H or section 19I or section 19J, that territorial authority or regional council must, as soon as practicable after making that resolution,—

- (a) send a copy of that resolution to—
 - (i) the Commission; and
 - (ii) the Surveyor-General; and
 - (iii) the Government Statistician; and
 - (iv) the Remuneration Authority; and
- (b) in the case of a resolution made by a regional council, send a copy of that resolution to every territorial authority whose district or a part of whose district is within the region; and
- (c) in the case of a resolution made by a territorial authority, send a copy of that resolution to any regional council for a region in which the district of the territorial authority or any part of that district is situated.

Compare: 1974 No 66 s 101I

Section 19L: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19L(a)(iv): replaced, on 29 June 2013, by section 10 of the Local Electoral Amendment Act 2013 (2013 No 40).

19M Public notice of proposals and responsibilities in relation to submissions

- (1) A territorial authority or regional council that makes a resolution under section 19H or section 19I or section 19J must, within 14 days after making the resolution (but, in the year immediately before the year of a triennial general election, not later than 8 September), give public notice of the proposals contained in the resolution.
- (2) The public notice must—

- (a) include a statement about how persons interested in the proposals may inspect the full proposals; and
 - (b) specify the communities of interest considered by the territorial authority or regional council as required by section 19T and section 19V or, as the case may require, section 19U and section 19V; and
 - (c) specify the ratio of population to proposed members for each proposed ward (if any) or constituency or subdivision (if any), and the reasons for those proposals in terms of section 19V(2) and, if applicable, section 19V(3); and
 - (d) specify a period of not less than 1 month from the date of the first or only publication of the notice within which persons interested in the resolution may make submissions on the resolution to the territorial authority or regional council.
- (3) A territorial authority or regional council to whom subsection (1) applies must—
 - (a) ensure that any person who makes a submission on the proposal within the period referred to in subsection (2)(d)—
 - (i) is sent a written notice acknowledging receipt of that person's submission; and
 - (ii) is given a reasonable opportunity to be heard by the territorial authority or regional council (if that person so requests); and
 - (b) ensure that the notice given to a person under paragraph (a) contains information—
 - (i) advising that person of that person's opportunity to be heard; and
 - (ii) explaining how that person may exercise that person's opportunity to be heard; and
 - (c) ensure that, except as otherwise provided by Part 7 of the Local Government Official Information and Meetings Act 1987, every meeting at which submissions on a resolution referred to in subsection (1) are heard or at which the territorial authority or regional council deliberates on the proposal is open to the public; and
 - (d) subject to the Local Government Official Information and Meetings Act 1987, make all written submissions on a resolution of that kind available to the public.

Compare: 1974 No 66 s 101J(1)

Section 19M: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19N Response to submissions

- (1) The territorial authority or regional council must, within 6 weeks after the end of the period allowed for the making of submissions and specified in the notice given under section 19M,—
 - (a) consider all submissions received and may, by resolution, make such amendments to the resolution made under section 19H or section 19I or section 19J, as the case may be, as it thinks fit; and
 - (b) give public notice of its proposals.
- (2) The public notice must—
 - (a) incorporate any amendments resolved under subsection (1)(a); and
 - (b) state both the reasons for the amendments and the reasons for any rejection of submissions; and
 - (ba) specify the communities of interest considered by the territorial authority (as required by sections 19T and 19V) or regional council (as required by sections 19U and 19V); and
 - (bb) specify the ratio of population to proposed members for each proposed ward, constituency, or subdivision, and the reasons for those proposals in terms of section 19V(2) and, if applicable, section 19V(3); and
 - (c) specify the right of appeal conferred by section 19O, including the place and closing date for the receipt of appeals; and
 - (d) if the territorial authority or regional council has amended its proposals under subsection (1)(a), specify the right of objection conferred by section 19P, including the place and closing date for the receipt of objections.
- (3) The territorial authority or regional council by which the public notice was given must—
 - (a) send a copy of that notice to—
 - (i) the Commission; and
 - (ii) the Surveyor-General; and
 - (iii) the Government Statistician; and
 - (iv) the Remuneration Authority; and
 - (b) if that notice was given by a territorial authority, send a copy of that notice to any regional council for a region in which the district of the territorial authority or any part of that district is situated; and
 - (c) if that notice was given by a regional council, send a copy of that notice to every territorial authority whose district or a part of whose district is within the region.

Compare: 1974 No 66 s 101J(3), (6)

Section 19N: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19N(2)(ba): inserted, on 29 June 2013, by section 11(1) of the Local Electoral Amendment Act 2013 (2013 No 40).

Section 19N(2)(bb): inserted, on 29 June 2013, by section 11(1) of the Local Electoral Amendment Act 2013 (2013 No 40).

Section 19N(3)(a)(iv): replaced, on 29 June 2013, by section 11(2) of the Local Electoral Amendment Act 2013 (2013 No 40).

19O Appeals

- (1) Any person who or organisation (including a local board or community board) that has made submissions on a resolution made under section 19H or section 19I or section 19J may lodge a written appeal against the decision of the territorial authority or regional council at the principal office of the territorial authority or regional council on or before the date specified in the public notice of that decision.
- (2) That date—
 - (a) must not be earlier than 1 month after the date of the first or only publication of the public notice; and
 - (b) must not, in a year immediately before the year of a triennial general election, be later than 20 December.
- (3) An appeal lodged under this section—
 - (a) must identify the matters to which the appeal relates:
 - (b) may raise only those matters that were raised in the appellants' submissions.

Compare: 1974 No 66 s 101J(4)

Section 19O: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19O(1): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

19P Objections

- (1) If the territorial authority or regional council has, under section 19N(1)(a), amended the resolution made by it under section 19H or section 19I or section 19J, any interested person or organisation (including a local board or community board) may lodge a written objection to the amended resolution at the principal office of the territorial authority or regional council on or before the date specified in the public notice, which date must be the same date as that specified for the closing of receipt of appeals under section 19O.
- (2) An objection lodged under this section must identify the matters to which the objection relates.

Compare: 1974 No 66 s 101J(5)

Section 19P: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19P(1): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

19Q Obligation to forward appeals and objections to Commission

If the territorial authority or regional council receives any appeal under section 19O or any objection under section 19P, the territorial authority or regional council must, as soon as practicable, but, in the year of a triennial general election, in no case later than 15 January, forward to the Commission—

- (a) the resolution made under section 19H or section 19I or section 19J and any resolution made under section 19N(1)(a) that made amendments to the resolution made under section 19H or section 19I or section 19J; and
- (b) a copy of the public notice given under section 19N(1)(b); and
- (c) every submission made to the territorial authority or regional council on the resolution made by the territorial authority or regional council under section 19H or section 19I or section 19J; and
- (d) every appeal and objection received by the territorial authority or regional council under section 19O or section 19P; and
- (e) such information concerning the communities of interest and population of the district or region or local board area or community, or any proposed ward or constituency or subdivision, as is held by the territorial authority or regional council and is necessary for the purposes of section 19R.

Compare: 1974 No 66 s 101J(7)

Section 19Q: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19Q(e): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

19R Commission to determine appeals and objections

- (1) The Commission must—
 - (a) consider the resolutions, submissions, appeals, objections, and information forwarded to it under section 19Q; and
 - (b) subject to sections 19T and 19V in the case of a territorial authority, and to sections 19U and 19V in the case of a regional council, determine,—
 - (i) in the case of a territorial authority that has made a resolution under section 19H, the matters specified in that section:
 - (ii) in the case of a regional council that has made a resolution under section 19I, the matters specified in that section:
 - (iii) in the case of a territorial authority that has made a resolution under section 19J, the matters specified in that section.

- (2) For the purposes of making a determination under subsection (1)(b), the Commission—
- (a) may make any enquiries that it considers appropriate; and
 - (b) may hold, but is not obliged to hold, meetings with the territorial authority or regional council or any persons who have lodged an appeal or objection and have indicated a desire to be heard by the Commission in relation to that appeal or objection.
- (3) The Commission must, before 11 April in the year of a triennial general election, complete the duties it is required to carry out under subsection (1).

Compare: 1974 No 66 s 101K(1), (2)

Section 19R: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19S Determination of Commission

- (1) Notice in writing of every determination made under section 19R(1)(b), setting out the reasons for the determination, must be given by the Commission to the territorial authority or regional council concerned, and by public notice.
- (2) As soon as practicable after the publication of a public notice under subsection (1), the Commission must send a copy of that notice to—
- (a) the Surveyor-General; and
 - (b) the Government Statistician; and
 - (c) the Remuneration Authority; and
 - (d) the Secretary for Local Government.
- (3) Subject to Part 2AA of the Local Government Act 1974 or Schedule 5 of the Local Government Act 2002, the determination of the Commission made under section 19R(1)(b) is final and comes into force for the next triennial general election, and continues in effect until a subsequent determination under this Part comes into effect.

Compare: 1974 No 66 s 101K(3)–(5)

Section 19S: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19S(2)(c): amended, on 29 June 2013, by section 12 of the Local Electoral Amendment Act 2013 (2013 No 40).

19T Requirement for effective representation and other factors in determination of membership and basis of election of territorial authorities and local boards

- (1) In determining the matters specified in paragraphs (a) to (d) of section 19H(1), the territorial authority and, where appropriate, the Commission must ensure—
- (a) that the election of members of the territorial authority (other than the mayor), in one of the ways specified in subparagraphs (i) to (iii) of sec-

- tion 19H(1)(a), will provide effective representation of communities of interest within the district; and
- (b) that ward boundaries coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes; and
 - (c) that, so far as is practicable, ward boundaries coincide with any local board area or community boundaries.
- (2) In determining the matters specified in section 19H(1)(e) to (h), the territorial authority and, where appropriate, the Commission must ensure—
- (a) that the election of members of the local board, in one of the ways specified in section 19H(1)(f)(i) to (iii), will provide effective representation of communities of interest within the local board area; and
 - (b) that the boundaries of subdivisions coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes; and
 - (c) that, so far as is practicable, subdivision boundaries coincide with ward boundaries.

Compare: 1974 No 66 s 101L(2), (4)

Section 19T: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19T heading: amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 19T(1)(c): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 19T(2): inserted, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

19U Requirement for effective representation and other factors in determination of membership and basis of election of regional council

In determining the matters specified in paragraphs (a) to (c) of section 19I(1), the regional council and, where appropriate, the Commission must ensure—

- (a) that the number and boundaries of constituencies will provide effective representation of communities of interest within the region; and
- (b) that constituency boundaries coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes; and
- (c) that, so far as is practicable, constituency boundaries coincide with the boundaries of 1 or more territorial authority districts or the boundaries of wards.

Compare: 1974 No 66 s 101L(1)

Section 19U: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19V Requirement for fair representation and other factors in determination of membership for wards, constituencies, and subdivisions

- (1) In determining the number of members to be elected by the electors of any ward or constituency or subdivision, the territorial authority or regional council and, where appropriate, the Commission must ensure that the electors of the ward or constituency or subdivision receive fair representation, having regard to the population of every district or region or local board area or community and every ward or constituency or subdivision within the district or region or local board area or community.
- (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 local board area 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).
- (3) Despite subsection (2),—
 - (a) if the territorial authority or the Commission considers that 1 or more of the following apply, wards and subdivisions of a local board area or a community may be defined and membership distributed between them in a way that does not comply with subsection (2):
 - (i) non-compliance with subsection (2) is required for effective representation of communities of interest within island communities or isolated communities situated within the district of the territorial authority; or
 - (ii) compliance with subsection (2) would limit effective representation of communities of interest by dividing a community of interest between wards or subdivisions; or
 - (iii) compliance with subsection (2) would limit effective representation of communities of interest by uniting within a ward or subdivision 2 or more communities of interest with few commonalities of interest:
 - (b) if the regional council or the Commission considers that effective representation of communities of interest so requires, constituencies may be defined and membership distributed between them in a way that does not comply with subsection (2).
- (4) A territorial authority or regional council that decides under subsection (3) not to comply with subsection (2) must refer that decision to the Commission together with the information specified in section 19Q(a) to (e).
- (5) A reference under subsection (4) must be treated as if it were an appeal against the decision of the territorial authority or regional council, for the purposes of

sections 19R (other than subsection (1)(b)), 19S, and 19Y, which apply with any necessary modifications.

- (6) On receiving a reference under subsection (4), the Commission must determine, under section 19R(1), whether—
- (a) to uphold the decision of the territorial authority or regional council; or
 - (b) to alter that decision.

Compare: 1974 No 66 s 101L(3)

Section 19V: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19V(1): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 19V(2): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 19V(2): amended, on 7 July 2004, by section 7 of the Local Electoral Amendment Act 2004 (2004 No 62).

Section 19V(3)(a): replaced, on 29 June 2013, by section 13(1) of the Local Electoral Amendment Act 2013 (2013 No 40).

Section 19V(3)(a): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 19V(4): amended, on 29 June 2013, by section 13(2) of the Local Electoral Amendment Act 2013 (2013 No 40).

Section 19V(4): amended, on 29 June 2013, by section 13(3) of the Local Electoral Amendment Act 2013 (2013 No 40).

Section 19V(5): amended, on 29 June 2013, by section 13(3) of the Local Electoral Amendment Act 2013 (2013 No 40).

Section 19V(6)(a): amended, on 29 June 2013, by section 13(3) of the Local Electoral Amendment Act 2013 (2013 No 40).

19W Factors in determination of matters in relation to community boards

In determining the matters specified in paragraphs (a) to (i) of section 19J(2), the territorial authority and, where appropriate, the Commission must ensure—

- (a) that, in the case of the matters specified in paragraphs (a) to (g) of section 19J(2), it has regard to such of the criteria as apply to local government reorganisation under the Local Government Act 1974 or the Local Government Act 2002 as the territorial authority or the Commission considers appropriate in the circumstances; and
- (b) that the election of members of the community board, in one of the ways specified in subparagraphs (i) to (iii) of section 19J(2)(h), will provide effective representation of communities of interest within the community and fair representation of electors; and
- (c) that the boundaries of every community, and of every subdivision of a community, coincide with the boundaries of the current statistical mesh-

block areas determined by Statistics New Zealand and used for parliamentary electoral purposes.

Compare: 1974 No 66 ss 101ZH(2), 101ZL

Section 19W: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19W(a): amended, on 5 December 2012, by section 43 of the Local Government Act 2002 Amendment Act 2012 (2012 No 93).

19X Certificate of Government Statistician

- (1) For the purposes of sections 19H to 19W, the certificate of the Government Statistician as to the population of any region, district, local board area, constituency, ward, community, or subdivision or any proposed constituency, ward, community, or subdivision is to be—
 - (a) a certificate of the ordinarily resident population as shown by the figures for the most recently published census (other than the figures for a census carried out in the year before a triennial general election of a territorial authority or regional council or the year in which such an election is to be held); or
 - (b) a certificate of the ordinarily resident population as assessed by the Government Statistician at any later date assessed by the Government Statistician.
- (2) Every territorial authority and every regional council must supply to the Government Statistician such information as may be required by the Government Statistician concerning the definition of any area to which any certificate of the kind referred to in subsection (1) is to relate.

Compare: 1974 No 66 s 101L(5)

Section 19X: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19X(1): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

19Y When determinations take effect

- (1) If there are no submissions on the proposal publicly notified under section 19M by a territorial authority or regional council, or if there are no appeals against, or objections to, a resolution publicly notified under section 19N(1) by a territorial authority or a regional council, the proposal or amended proposal, as the case may be, becomes the basis for election at the next triennial general election of the territorial authority or regional council or local board or community board, and continues in effect until a subsequent determination under this Part comes into effect, and the territorial authority or regional council must give public notice accordingly of that basis for election.
- (2) As soon as practicable after the publication of a public notice under subsection (1), the territorial authority or regional council by which that notice was given must—

- (a) send a copy of that notice to—
 - (i) the Commission; and
 - (ii) the Surveyor-General; and
 - (iii) the Government Statistician; and
 - (iv) the Remuneration Authority; and
 - (v) the Secretary for Local Government; and
 - (b) if that notice was given by a territorial authority, send a copy of that notice to any regional council for a region in which the district of the territorial authority or a part of that district is situated; and
 - (c) if that notice was given by a regional council, send a copy of that notice to every territorial authority whose district or a part of whose district is within the region.
- (3) If a territorial authority or a regional council has, under subsection (1), or the Commission has, under section 19S(1), given public notice of the basis of election for the next triennial general election for a territorial authority or regional council or local board or community board, no such basis has effect unless—
 - (a) a description or plan of each ward or constituency or community or subdivision has been sent to the Surveyor-General; and
 - (b) the Surveyor-General, or a person appointed by the Surveyor-General, certifies that the description or plan is sufficient to render the boundaries of each ward or constituency or community or subdivision capable of identification.
- (4) If the description of any ward or constituency or community or subdivision to which subsection (3) applies is defective, but the Surveyor-General, or a person appointed by the Surveyor-General, certifies that it can be amended and the defect overcome without making any change in what was evidently intended to be the area comprised in the description, the description—
 - (a) may be so amended by resolution; and
 - (b) if so amended, has effect as if the provisions of subsection (3) had been complied with.
- (5) The territorial authority or regional council must reimburse the Commission for any costs incurred by the Commission in obtaining the certificate required by subsection (3) or must meet the cost of the production of that certificate if required to do so by the Surveyor-General.
- (6) The following provisions apply to every determination of the Commission under this section:
 - (a) it is to come into force at the next triennial general election, except so far as may be necessary to provide for that election; and

- (b) a copy must be kept at the office of the territorial authority or regional council, and must be available for inspection without fee by any person during normal office hours.

Compare: 1974 No 66 s 101M

Section 19Y: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19Y(1): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 19Y(2)(a)(iv): amended, on 29 June 2013, by section 14 of the Local Electoral Amendment Act 2013 (2013 No 40).

Section 19Y(3): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Māori wards and Māori constituencies

Heading: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19Z Territorial authority or regional council may resolve to establish Māori wards or Māori constituencies

- (1) Any territorial authority may resolve that the district be divided into 1 or more Māori wards for electoral purposes.
- (2) Any regional council may resolve that the region be divided into 1 or more Māori constituencies for electoral purposes.
- (3) A resolution under this section,—
 - (a) if made after a triennial general election but no later than 23 November of the year that is 2 years before the next triennial general election, takes effect, subject to paragraph (c), for the purposes of the next triennial general election of the territorial authority or regional council; and
 - (b) in any other case, takes effect, subject to paragraph (c), for the purposes of the next but one triennial general election; and
 - (c) in either case, takes effect for 2 triennial general elections of the territorial authority or regional council, and any associated election, and continues in effect after that until either—
 - (i) a further resolution under this section takes effect; or
 - (ii) a poll of electors of the territorial authority or regional council held under section 19ZF takes effect.
- (4) This section is subject to section 19ZE and to clauses 2(5) and 4(4) of Schedule 1A.
- (5) In this section and in sections 19ZB to 19ZG, **associated election**, in relation to any 2 successive triennial general elections of a territorial authority or regional council, means—

- (a) any election to fill an extraordinary vacancy in the membership of the body concerned that is held—
 - (i) between those elections; or
 - (ii) after the second of those elections but before the subsequent triennial general election:
- (b) an election of the members of the body concerned under section 258I or 258M of the Local Government Act 2002 that is held—
 - (i) between those elections; or
 - (ii) after the second of those elections but before the subsequent triennial general election.

Section 19Z: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19Z(4): amended, on 28 June 2006, by section 4 of the Local Electoral Amendment Act 2006 (2006 No 25).

Section 19Z(5)(b): amended, on 5 December 2012, by section 43 of the Local Government Act 2002 Amendment Act 2012 (2012 No 93).

19ZA Public notice of right to demand poll

- (1) A territorial authority or regional council that passes a resolution under section 19Z must give public notice, not later than the required date, of the right to demand, under section 19ZB, a poll on the question whether,—
 - (a) in the case of a territorial authority, the district should be divided into 1 or more Māori wards; or
 - (b) in the case of a regional council, the region should be divided into 1 or more Māori constituencies.
- (2) The public notice under subsection (1) must include—
 - (a) notice of the resolution under section 19Z; and
 - (b) a statement that a poll is required to countermand that resolution.
- (3) In subsection (1), **required date** means,—
 - (a) in the case of a resolution under section 19Z that is made after a triennial general election but not later than 23 November of the year that is 2 years before the next triennial general election, 30 November in that year;
 - (b) in the case of a resolution under section 19Z that is made at some other time, the date that is 7 days after the date of the resolution.
- (4) This section is subject to section 19ZE.

Section 19ZA: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19ZB Electors may demand poll

- (1) A specified number of electors of a territorial authority or regional council may, at any time, demand that a poll be held on the question whether,—
 - (a) in the case of a territorial authority, the district should be divided into 1 or more Māori wards; or
 - (b) in the case of a regional council, the region should be divided into 1 or more Māori constituencies.
- (2) This section is subject to section 19ZE.
- (3) In this section and sections 19ZC and 19ZD,—

demand means a demand referred to in subsection (1)

specified number of electors, in relation to a territorial authority or regional council, means a number of electors equal to or greater than 5% of the number of electors enrolled as eligible to vote at the previous triennial general election of the territorial authority or regional council.

Section 19ZB: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19ZC Requirements for valid demand

- (1) A demand must be made by notice in writing—
 - (a) signed by a specified number of electors; and
 - (b) delivered to the principal office of the territorial authority or regional council.
- (2) An elector may sign a demand and be treated as one of the specified number of electors only if,—
 - (a) in the case of a territorial authority, the name of the elector appears on the electoral roll of the territorial authority; or
 - (b) in the case of a regional council, the name of the elector appears on the electoral roll of a territorial authority and the elector's address as shown on that roll is within the region; or
 - (c) in a case where the name of an elector does not appear on a roll in accordance with paragraph (a) or paragraph (b),—
 - (i) the name of the elector is included on the most recently published electoral roll for any electoral district under the Electoral Act 1993 or is currently the subject of a direction by the Electoral Commission under section 115 of that Act (which relates to unpublished names); and
 - (ii) the address for which the elector is registered as a parliamentary elector is within the local government area of the territorial authority or regional council; or
 - (d) the address given by the elector who signed the demand—

- (i) is confirmed by the Electoral Commission as the address at which the elector is registered as a parliamentary elector; and
 - (ii) is, if the demand was given to a territorial authority, within the district of the territorial authority; or
 - (iii) is, if the demand was delivered to a regional council, within the region of the regional council; or
- (e) the elector has enrolled, or has been nominated, as a ratepayer elector and is qualified to vote as a ratepayer elector in elections of the territorial authority or, as the case may require, the regional council.
- (3) Every elector who signs a demand must state, against his or her signature,—
 - (a) the elector's name; and
 - (b) the address for which the person is qualified as an elector of the territorial authority or regional council.
- (4) If a valid demand is received after 21 February in the year before the next triennial general election, the poll required by the demand—
 - (a) must be held after 21 May in that year; and
 - (b) has effect in accordance with section 19ZG(4) (which provides that the poll has effect for the purposes of the next but one triennial general election and the subsequent triennial general election).
- (5) The chief executive of the territorial authority or regional council must, as soon as practicable, give notice to the electoral officer of every valid demand for a poll made in accordance with section 19ZB and this section.
- (6) This section is subject to section 19ZE.

Section 19ZC: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19ZC(2)(c)(i): amended, on 1 July 2012, by section 58(4) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 19ZC(2)(d)(i): amended, on 21 March 2017, by section 114 of the Electoral Amendment Act 2017 (2017 No 9).

Section 19ZC(4): amended, on 26 March 2015, by section 4 of the Local Electoral Amendment Act 2015 (2015 No 19).

19ZD Territorial authority or regional council may resolve to hold poll

- (1) A territorial authority or regional council may, at any time, resolve that a poll be held on the question whether,—
 - (a) in the case of a territorial authority, the district should be divided into 1 or more Māori wards; or
 - (b) in the case of a regional council, the region should be divided into 1 or more Māori constituencies.
- (2) A resolution under subsection (1) may, but need not, specify the date on which the poll is to be held.

- (3) The date specified for the holding of a poll must not be a date that would require deferral of the poll under section 138A.
- (4) The chief executive of the territorial authority or regional council must give notice to the electoral officer under subsection (1),—
 - (a) if no date for the holding of the poll is specified in the resolution, as soon as is practicable;
 - (b) if a date for the holding of the poll is specified in the resolution, at an appropriate time that will enable the poll to be conducted in accordance with section 19ZF(3).
- (5) This section is subject to section 19ZE.

Section 19ZD: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19ZE Limitation on division into Māori wards or Māori constituencies

Sections 19Z to 19ZD do not apply, in relation to a territorial authority or regional council, if—

- (a) a poll on the proposal described in section 19ZB or section 19ZD held under section 19ZF took effect at the previous triennial general election of the territorial authority or regional council or takes effect at the next triennial general election of the territorial authority or regional council; or
- (b) another enactment requires that the district be divided into 1 or more Māori wards or the region be divided into 1 or more Māori constituencies.

Section 19ZE: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19ZF Poll of electors

- (1) If the electoral officer for a territorial authority or regional council receives notice under section 19ZC(5) or section 19ZD(4), the electoral officer must, as soon as practicable after receiving that notice, give public notice of the poll under section 52.
- (2) Despite subsection (1), if an electoral officer for a territorial authority or regional council receives 1 or more notices under both section 19ZC(5) and section 19ZD(4), or more than 1 notice under either section, in any period between 2 triennial general elections, the polls required to be taken under each notice may, to the extent that those polls would, if combined, take effect at the same general election, and if it is practicable to combine those polls, be combined.
- (3) A poll held under this section must be held not later than 89 days after the date on which—
 - (a) the notice referred to in subsection (1) is received; or

- (b) the last notice referred to in subsection (2) is received.
- (4) Subsection (3) is subject to subsection (2), section 19ZC(4), and section 138A.
- (5) Every poll under this section that is held in conjunction with a triennial general election or held after that date but not later than 21 May in the year immediately before the year in which the next triennial general election is to be held determines whether, for the next 2 triennial general elections for the territorial authority or regional council and any associated election,—
 - (a) the district of the territorial authority is to be divided into 1 or more Māori wards; or
 - (b) the region of the regional council is to be divided into 1 or more Māori constituencies.
- (6) Every poll under this section that is held at some other time determines whether, for the next but one triennial general election and the following triennial general election for the territorial authority or regional council and any associated election,—
 - (a) the district of the territorial authority is to be divided into 1 or more Māori wards; or
 - (b) the region of the regional council is to be divided into 1 or more Māori constituencies.
- (7) Subsections (5) and (6) are subject to clauses 2(5) and 4(4) of Schedule 1A.

Section 19ZF: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19ZF(3): amended, on 26 March 2015, by section 5 of the Local Electoral Amendment Act 2015 (2015 No 19).

19ZG Effect of poll

- (1) Subsection (2) applies to a poll held in conjunction with a triennial general election or held after that election but not later than 21 May in the year immediately before the year in which the next triennial general election is to be held.
- (2) If the result of a poll to which this subsection applies requires the division of the district of a territorial authority into 1 or more Māori wards, or the division of the region of a regional council into 1 or more Māori constituencies, that district or region must be divided into those wards or constituencies, as the case requires,—
 - (a) in the case of a territorial authority, for the next 2 triennial general elections of the territorial authority, and any associated election; and
 - (b) in the case of a regional council, for the next 2 triennial general elections of the regional council, and any associated election; and
 - (c) for all subsequent triennial general elections, elections to fill extraordinary vacancies, and elections called under section 258I or 258M of the Local Government Act 2002, until a further resolution under section 19Z

takes effect or a further poll held under section 19ZF takes effect, whichever occurs first.

- (3) Subsection (4) applies to a poll held at some other time.
- (4) If the result of a poll to which this subsection applies requires the division of a territorial authority into 1 or more Māori wards, or the division of the region of a regional council into 1 or more Māori constituencies, that district or region must be divided into those wards or constituencies, as the case requires,—
 - (a) in the case of a territorial authority, for the next but one triennial general election and the following triennial general election of the territorial authority, and any associated election; and
 - (b) in the case of a regional council, for the next but one triennial general election and the following triennial general election of the regional council, and any associated election; and
 - (c) for all subsequent triennial general elections, elections to fill extraordinary vacancies, and elections called under section 258I or 258M of the Local Government Act 2002, until a further resolution under section 19Z takes effect or a further poll held under section 19ZF takes effect, whichever occurs first.
- (5) This section is subject to clauses 2(5) and 4(4) of Schedule 1A.

Section 19ZG: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19ZG(2)(c): amended, on 5 December 2012, by section 43 of the Local Government Act 2002 Amendment Act 2012 (2012 No 93).

Section 19ZG(4)(c): amended, on 5 December 2012, by section 43 of the Local Government Act 2002 Amendment Act 2012 (2012 No 93).

19ZH Basis of election of territorial authority and regional council

If, for the purpose of a triennial general election,—

- (a) a district of a territorial authority is required to be divided into 1 or more Māori wards; or
- (b) a region of a regional council is required to be divided into 1 or more Māori constituencies,—

the provisions of this Part (other than those of sections 19B, 19G, and 19J, and those of this section) are subject to the provisions of Schedule 1A.

Section 19ZH: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Guidelines

Heading: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19ZI Guidelines in relation to reviews of representation or minor alterations to boundaries

- (1) The Commission must issue guidelines identifying factors and considerations for territorial authorities or regional councils to take into account in making determinations under any of the provisions of sections 19H to 19JB and Schedule 1A.
- (2) The Commission may, from time to time, amend or revoke any guidelines issued under subsection (1).
- (3) Any guidelines issued under subsection (1) may relate to territorial authorities or regional councils generally or to a specific class of territorial authorities or regional councils.
- (4) The Commission must, as soon as practicable after issuing any guidelines under subsection (1),—
 - (a) send a copy of those guidelines to every territorial authority and every regional council; and
 - (b) publish in the *Gazette* a notice—
 - (i) stating that the guidelines have been issued; and
 - (ii) naming the place or places at which copies of the guidelines are available for inspection free of charge or for purchase or both.
- (5) The Commission must ensure that, so long as the guidelines remain in force, copies of the guidelines are available—
 - (a) for inspection by members of the public free of charge; and
 - (b) for supply to members of the public either free of charge or for purchase at a reasonable price.
- (6) The provisions of subsections (4) and (5) apply, with all necessary modifications, in respect of any amendment or revocation of any guidelines issued under subsection (1).

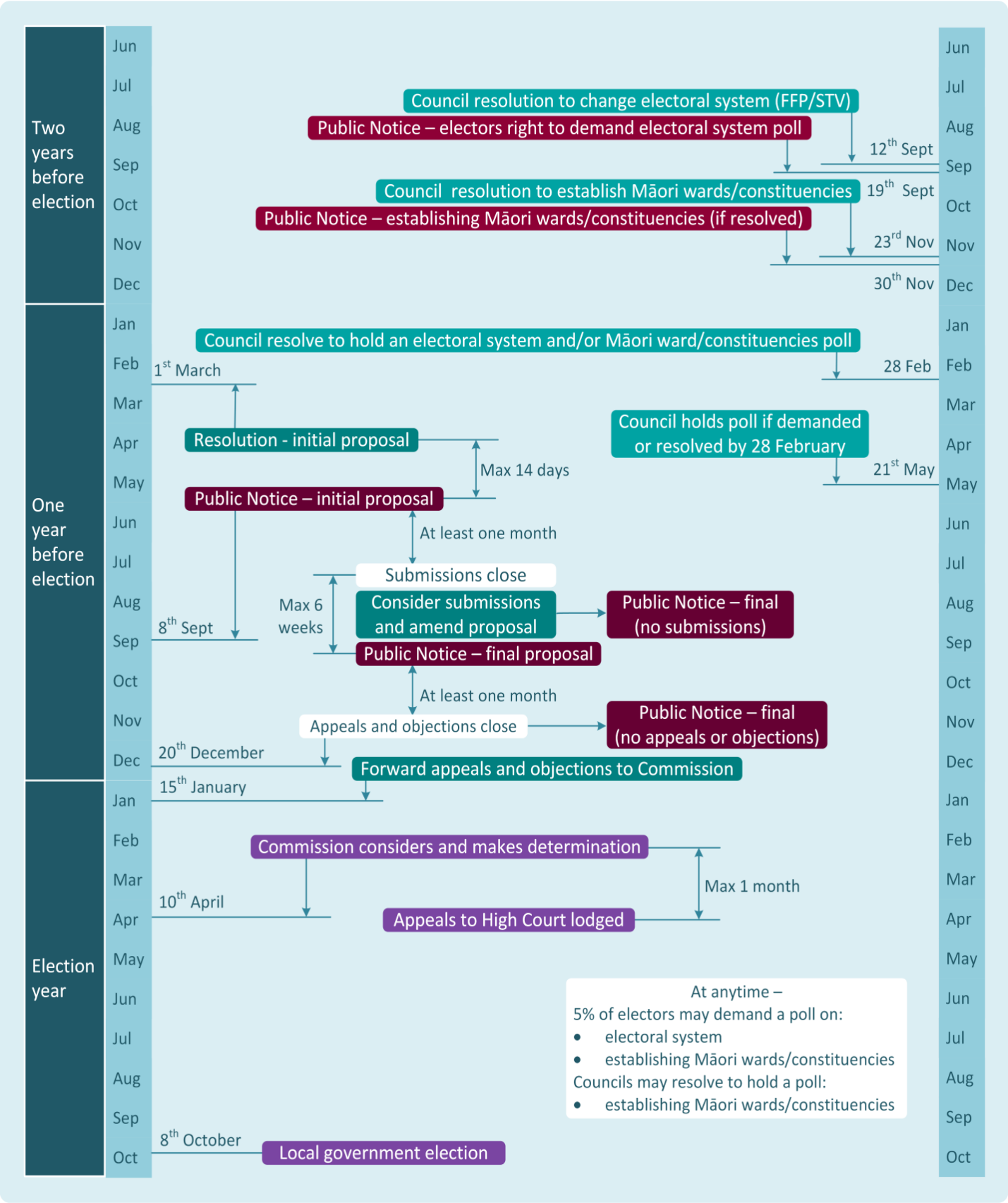
Section 19ZI: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19ZI heading: amended, on 29 June 2013, by section 15(1) of the Local Electoral Amendment Act 2013 (2013 No 40).

Section 19ZI(1): amended, on 29 June 2013, by section 15(2) of the Local Electoral Amendment Act 2013 (2013 No 40).

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. This 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.



REPORT

TO: Representation Review Subcommittee

FOR: Meeting on 19 August 2020

FROM: Chief Executive

DATE: 7 August 2020

SUBJECT: **ADOPTION OF THE REPRESENTATION REVIEW SUBCOMMITTEE TERMS OF REFERENCE**

RECOMMENDATION

‘That the Representation Review Subcommittee adopt the Terms of Reference.’

1. INTRODUCTION

At its post-2020 Election retreat, Councillors confirmed the membership for the Representation Review Subcommittee, this being:

- Mayor S T Broughton
- Councillor M A Alexander *(for the Selwyn Central Ward)*
- Councillor S Epiha *(for the Ellesmere Ward)*
- Councillor J A Gallagher *(for the Malvern Ward)*
- Councillor G S Miller *(for the Springs Ward)*
- Mr J B Morten *(Malvern Community Board Chair)*

2. REQUIREMENT

It is recommended that members of the Representation Review Subcommittee adopt a Terms of Reference, which sets out - as a minimum - the following:

- Purpose
- Membership
- Responsibilities

Attached to this report is the proposed Terms of Reference for adoption or amendment.

3. POST-ADOPTION AMENDMENTS

Following adoption of the Terms of Reference, any amendment to, or adoption of a new Terms of Reference requires, in every case, a vote in support of the amendment of no less than 75% of the Subcommittee membership.

4. OPTIONS

Members of the Representation Review Subcommittee can choose from the following options at today's meeting

- (a) adopt the attached Terms of Reference in its current form; or
- (b) adopt the attached Terms of Reference with amendments noted at today's meeting; or
- (c) defer for further amendments and adoption at the next meeting of the Representation Review Subcommittee (date to be set).'

A handwritten signature in black ink, appearing to read 'D. Ward', with a stylized flourish at the end.

David Ward
CHIEF EXECUTIVE



REPRESENTATION SUBCOMMITTEE TERMS OF REFERENCE Adopted on 19 August 2020

PURPOSE

Selwyn District Council is required to undertake a Representation Review prior to the 2022 Local elections under the Provisions of the Local Electoral Act 2001 and the Local Government Act 2002.

The Local Electoral Act provides for local authorities and their communities to choose their electoral systems for the next two elections.

Section 19 of the Local Government Act identifies those arrangements to be reviewed as:

- Membership of territorial authorities;
- Basis of election of the Mayor of the territorial authority;
- Basis of election of members of the territorial authority;
- Membership of the community boards;
- Basis of election of members of community boards.

MEMBERSHIP

It is considered appropriate, given the nature of the work that is to be undertaken, together with the changing nature of the District's population, that representation on the Representation Review Subcommittee, comprise one member from each ward, together with the Chairperson of the Malvern Community Board.

The membership of the Representations Review Committee is as follows¹:

- Mayor S T Broughton
- Councillor M A Alexander (*for the Selwyn Central Ward*)
- Councillor S Epiha (*for the Ellesmere Ward*)
- Councillor J A Gallagher (*for the Malvern Ward*)
- Councillor G S Miller (*for the Springs Ward*)
- Mr J B Morten (*Malvern Community Board Chair*)

The Mayor will be an ex officio member of the Representation Review Subcommittee. Other members may be added if considered appropriate at future times.

The Committee will be supported by the following staff:

- Chief Executive - David Ward
- Deputy Electoral Officer / Group Manager Communication and Customers - Stephen Hill
- Secretariat Support

¹ The Chair role will be updated in the Terms of Reference following adoption of a Chairperson at the Inaugural meeting

REQUIRED TIMELINE

The Representation Review Subcommittee must adhere to the timelines as set out by the Local Government Commission. This is set out below

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"> no earlier than 1 March in the year before election year by 31 August in the year before election year, if establishing Māori wards/constituencies in any other case, in time for the deadline for public notice (i.e. by 7 September) 	<ul style="list-style-type: none"> 19H (territorial authorities) 19I (regional councils) 19J (community boards) Schedule 1A for Māori wards or constituencies
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 ¹	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"> not less than 1 month after the date of the public notice issued under section 19N(1)(b) not later than 20 December in the year before election year 	19O 19P
If no appeals or objections then proposal becomes final ¹	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 ²	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 ³	Appeals to be lodged within 1 month of determination	Clause 2, Schedule 5, Local Government Act 2002

REPRESENTATION REVIEW STEPS

When undertaking a representation review, the following matters must be taken into consideration:

- A review of existing representation arrangements for elections of territorial authorities;
- A review of community boards;
- A requirement for effective representation and other factors in determination of membership and basis of election of territorial authorities;
- Requirement for fair representation and other factors in determination of membership for wards;
- Factors in determination of matters in relation to community boards;
- Consideration of the requirement for Maori wards/constituencies.

The Local Government Act is very prescriptive both in terms of the process and timeframe under which representation reviews must take place. To assist the Sub-Committee in its work, the Local Government Commission has recently released 'A Guideline to Representation Reviews'. This publication, together with staff knowledge and experience, will assist the Sub-Committee and the work it is required to undertake.

The Local Government Commission Guideline for local authorities undertaking representation reviews is *attached* to this Terms of Reference.

The key steps in the process as set out in the Local Government Commission Guidelines are set out below:

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

Local authorities must carry out a representation review at least every six years, and may choose to carry out a review after three years. 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?¹²
- Given the establishment of Māori wards/constituencies triggers a representation review, what are the local authority's, iwi/hapū's and/or community's views on the issue of separate Māori representation?¹³
- 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 communities' 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?

In addition, local authorities have the option of making minor boundary alterations after three years rather than undertaking a full review

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

Step 2: Consider preliminary consultation

Once a local authority is either required or has decided to carry out a representation review, it needs to consider whether to carry out preliminary consultation with the community (including local Māori) on the representation issues including:

- the electoral system
- Māori representation

- communities of interest. 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.

Step 3: Identify communities of interest

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

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
- the diversity of the population and the geographical location of particular communities of interest
- improved communications mechanisms.

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, does it have the responsibilities of a unitary authority)
- the need for efficient and effective governance of the district/region.

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. 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 or ward boundaries, and for ward boundaries to coincide with community boundaries
- the names of the wards/constituencies

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

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.

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.

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)?

If sufficient grounds for an exception:

- are identified, document these in appropriate detail
- cannot be identified, consider altering or reconfiguring the boundaries.

Steps 4 and 5 may need to be repeated a number of times until a proposal has been identified that best meets both criteria.

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

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.

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.

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

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.

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.

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), 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.

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 should 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.

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.

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
- where the '+/-10% rule' has not been complied with the specific grounds for not complying and the supporting reasons for that decision
- 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.

Guidelines for local authorities undertaking representation reviews

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Guidelines for Local Authorities Undertaking Representation Reviews

Local Government Commission
Mana Kāwanatanga ā Rohe
Wellington

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Chapter 1: Introduction

1.1 These are the seventh representation review guidelines issued by the Local Government Commission in accordance with *section 19ZI, Local Electoral Act 2001*. They replace the guidelines issued in June 2017.

1.2 *Section 19ZI, 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 2022. 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, Local Electoral Act 2001* 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 after three 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 decisions are not formally part of the representation review process, and are matters for local discretion with no right of appeal to the Commission. However, these options are important in helping to identify 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 should be 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](#) on page 57 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 *s19V(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 However, if the only reason for referral to the Commission is non-compliance with *s19V(2)*, the Commission's role is solely to determine the non-complying arrangements.
- 1.18 The Commission's process for determining representation arrangements in these situations is outlined in [Chapter 11: Appeals, objections, and referrals](#) on page 46.
- 1.19 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*.
- 1.20 Commission determinations may be:
- appealed only on a point of law
 - subject to judicial review regarding matters of process.

Are the guidelines legally binding?

- 1.21 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

- 1.22 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

- 1.23 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

- 1.24 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) 460 2228
Email: info@lgc.govt.nz
Postal address: PO Box 5362
Wellington 6140

All contact details in these guidelines are also listed in [Appendix A: Contacts](#) on page 55.

Chapter 2: Statutory provisions

Requirement to carry out a review

- 2.1 The local authorities that must carry out a representation review before the 2022 elections are those:
- that didn't carry out a review leading up to the 2019 elections (*s19H(2) and s19I(2)*); or
 - that are establishing Māori wards/constituencies for the first time for the 2022 local authority elections (*cl 1(1), Schedule 1A*). See [Chapter 4: Māori wards & constituencies](#) on page 15 for more information.
- 2.2 Local authorities that carried out a representation review leading up to the 2019 local elections are not required to undertake a review before the 2022 local elections, but may do so, if they choose.

Statutory provisions from *Part 1A, Local Electoral Act 2001*

- 2.3 This section covers the statutory provisions from *Part 1A Representation arrangements for elections of territorial authorities, regional councils, local boards, and community boards*.
- 2.4 The requirements relating to local authorities' representation reviews are contained in *ss19A to 19Y, Part 1A Local Electoral Act 2001*. These cover:
- representation arrangements
 - representation reviews
 - procedural steps and timelines.

Representation arrangements

- 2.5 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 authority*
 - *section 19C – basis of election of members of territorial authority*
 - *section 19D – membership of regional councils*
 - *section 19E – basis of election of members of regional council*
 - *section 19EA – membership of local boards*
 - *section 19EB – basis of election of chairperson of local board in certain circumstances*
 - *section 19EC – basis of election of members of local board*
 - *section 19F – membership of community boards*

- *section 19G – basis of election of members of community board.*

Review of representation arrangements

2.6 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 and local boards*
- *section 19U – requirement for effective representation and other factors in determination of membership and basis of election of regional council*
- *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.*

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

2.8 Matters for local authorities to take into account when formulating proposals for Māori wards/constituencies are outlined in [Chapter 4: Māori wards & constituencies](#) on page 15.

Procedural steps

2.9 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

- 2.10 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.
- 2.11 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.
- 2.12 It is desirable for a regional councils and territorial authorities in a region to communicate on the timing and direction of their reviews. This is particularly so given the requirement for regional constituencies, as far as practicable, to coincide with territorial authority or ward boundaries (*s19U*).
- 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"> no earlier than 1 March in the year before election year by 31 August in the year before election year, if establishing Māori wards/constituencies in any other case, in time for the deadline for public notice (i.e. by 7 September) 	<ul style="list-style-type: none"> 19H (territorial authorities) 19I (regional councils) 19J (community boards) Schedule 1A for Māori wards or constituencies
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 ¹	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"> not less than 1 month after the date of the public notice issued under section 19N(1)(b) not later than 20 December in the year before election year 	19O 19P
If no appeals or objections then proposal becomes final ¹	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 ²	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 ³	Appeals to be lodged within 1 month of determination	Clause 2, Schedule 5, Local Government Act 2002

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

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

³ Commission determinations may also be subject to judicial review.

Other relevant statutory provisions

- 2.15 In addition to the specific requirements of *Part 1A, 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:

- representative and substantive electoral participation in local elections and polls
- 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, 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 promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.

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 each aspect of well-being referred to in *section 10*:
- (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, 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, 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 *subsections 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, Local Government Act 2002* and relating to a community board, or
 - a broader community of interest within the district/region.
- 2.31 *Section 5, 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 2.20 to 2.23 (from *Part 2, 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 local boards or 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, 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
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 should be considered as part of the overall review of representation.

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 this can be considered during the review process, choosing an electoral system should occur before:

- the representation review
- decisions on establishment of Māori wards/constituencies.

Further information

3.12 Further information is also available in the following reports:

Graham Bush, "STV and local body elections -- a mission probable?" in J. Drage (ed), *Empowering Communities? Representation and Participation in New Zealand's Local Government*, pp 45-64 (Wellington: Victoria University Press, 2002).

Christine Cheyne and Margie Comrie, "Empowerment for Encumbrance? Exercising the STV Options for Local Authority Elections in New Zealand, *Local Government Studies*, 31(2), April 2005: pp 185-204.

Dr Janine Hayward, [The Local Government Electoral Option 2008](#)

A 2017 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

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)

Jack Vowles, "STV and the 2004 local elections: Disaster or success?", *Public Sector*, 28(3), 2005: 1

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, Local Electoral Act 2001*.⁴
- 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 – *s19Z(1)*, poll demand – *19ZC(4)*). 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 (*s19ZA*).
- 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 (*s19ZC(4)*). 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 The *Bay of Plenty Regional Council (Maori Constituency Empowering) Act 2001* requires the Bay of Plenty Regional Council to include provision for 1 or more Māori constituencies in representation reviews conducted by it. *Sections 19Z to 19ZG, Local Electoral Act 2001* do not, therefore, apply to the Bay of Plenty Region. In carrying a representation review the Bay of Plenty Regional Council must follow both the process set out in the *Local Electoral Act* and the *Bay of Plenty Regional Council (Maori Constituency Empowering) Act*.

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, Local Electoral Act 2001*). In such cases the requirements of *Part 1A, Local Electoral Act 2001* are subject to the provisions of *Schedule 1A*.

4.10 *Clauses 1 and 3, 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, 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, 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:

- Statistics New Zealand, [‘The mathematics of electorate allocation in New Zealand based on the outcome of the 2018 Census and the Māori Electoral Option 2018’ \(2018\)](#)

- Statistics New Zealand, [‘Deriving the 2018 Māori Descent electoral Calculations’ \(2018\)](#).

Number and boundaries of wards/constituencies

4.20 In determining arrangements for Māori wards/constituencies, *clause 6, 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, 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 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, 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 definition⁵ 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.

⁵ [*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 A degree of commonality between regional and district communities of interest can be assumed. This is in light of the requirement relating to effective representation of communities of interest for regional councils (addressed next) for their constituencies, so far as is practicable, to coincide with territorial authority boundaries or territorial authority ward boundaries (*s19U(c)*).
- 5.11 This does not preclude regional constituencies varying from territorial authority/ward boundaries to reflect, for example, communities based around river catchments. However, if this is proposed the regional council should clearly document the case for this variation.
- 5.12 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

- 5.13 Territorial authorities must ensure effective representation of communities of interest (*s19T*).
- 5.14 Regional councils must ensure effective representation of communities of interest (*s19U*).
- 5.15 Achieving effective representation first requires identifying communities of interest that are geographically distinct and, in the case of territorial authorities, those that may be spread across the district.
- 5.16 Effective representation of these communities of interest must be achieved within the following statutory limits:
- between 5 and 29 members (excluding the mayor) for territorial authorities (*s19A*)
 - between 6 and 14 members for regional councils (*s19D*).
- 5.17 Other factors to consider include the size, nature, and diversity of the district/region.
- 5.18 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 the identified communities of interest.
- 5.19 As far as practicable, the following further 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
 - provide reasonably even representation across the area including activities like attending public meetings and opportunities for face-to-face meetings.
- 5.20 As far as 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.
- 5.21 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.
- 5.22 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.
- 5.23 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.
- 5.24 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 better allow for proportional representation under STV (see paragraph 3.10 on page 13).
- 5.25 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.
- 5.26 All members, regardless of the area they are elected to represent, 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. Ward and at large members do, however, continue to represent the areas they are elected from at the council table.
- 5.27 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

5.28 *Section 19V, Local Electoral Act 2001* details the factors to be applied in determining the membership for wards/constituencies/subdivisions in order to achieve fair representation of electors.

5.29 Under this provision, membership of wards/constituencies/subdivisions 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.

5.30 *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).

5.31 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.

5.32 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)*).

5.33 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*.

- 5.34 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.
- 5.35 Examples of the application of the ‘+/-10% rule’, including exceptions, can be found in the Commission’s determinations for the 2010, 2013, 2016 and 2019 elections, available on the Commission’s website www.lgc.govt.nz. Earlier determinations can be found on the Commission’s [archived website](#).⁶
- 5.36 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.
- 5.37 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.
- 5.38 In addition, a district may have its own particular factors that contribute to an area having a sense of isolation.
- 5.39 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.

⁶ Note that determinations made between 2004 and 2013 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. Determinations made prior to 2004 were required to achieve fair representation but were not subject to the ‘+/-10% rule’.

Questions and answers relating to effective and fair representation

Is effective or fair representation more important?

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

- (a) fair and effective representation for individuals and communities

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

5.42 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?

5.43 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 on page 26 should guide territorial authorities' assessment of isolation. The Commission applies these when considering appeals, objections, and referrals.

If a territorial authority ward or regional council constituency or community board subdivision 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/community?

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

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

5.45 The '+/-10% rule' is calculated once under section 19V(2) for the district/region/community 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/community 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, Local Government Act 2002* provides for community boards to be established at any time outside of the representation review process 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, Local Electoral Act 2001*.

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

- 6.11 In undertaking its review, the territorial authority is required to consider the criteria as apply to local government reorganisation 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, 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 As noted in paragraph 6.11 when deciding community board matters under *section 19J*, the territorial authority (or Commission, if applicable) needs to consider the criteria for local government reorganisation that they consider appropriate.
- 6.13 The High Court has found that previous statutory reorganisation criteria 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.⁷
- 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, 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.

⁷ 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 (which must be unitary authorities) must consider certain local board arrangements as part of their representation review (*s19H(1)(e)-(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*⁸ provides for a minimum of 5 and maximum of 12 local board members.
- 7.6 The *Local Government Act 2002* and the *Local Electoral Act 2001* provide that, if provided for, by an Order in Council implementing a reorganisation proposal, local boards:
- include appointed members⁹

⁸ *Section 11, Local Government (Auckland Council) Act 2009* applies in the case of Auckland local boards.

⁹ *Section 48E, Local Government Act 2002* and *section 19EA, Local Electoral Act 2001*

- have a chairperson directly elected by electors¹⁰.

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, where 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, Local Electoral Act 2001*.

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

¹⁰ *Section 48E, Local Government Act 2002* and *section 19EB, Local Electoral Act 2001*

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 allocated responsibilities or delegations as part of any representation determination.

Chapter 8: Consultation

Introduction

- 8.1 *Part 1A, 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, 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 often led or facilitated by local councillors, community boards, or other community groups. Targeted consultation may also be appropriate, including with iwi and hapū.¹¹
- 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.

¹¹ Specific consultation with iwi and hapū may be required if determining the number, area, names 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 the statutory principles of fair and effective representation for all individuals and communities of interest of the district/region, and not be limited to reflecting majority community views on particular aspects of arrangements.
- 8.7 Local authorities should 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 at least in the early stages of the review process.
- 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](#) on page 8
 - 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](#) on page 62
 - [Appendix F: Sample public notice – final proposal](#) on page 66
 - [Appendix G: Sample public notice – no submissions](#) on page 71
 - [Appendix H: Sample public notice – no appeals or objections](#) on page 74
- 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 decision-making 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 after three years. 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?¹²
 - Given the establishment of Māori wards/constituencies triggers a representation review, what are the local authority's, iwi/hapū's and/or community's views on the issue of separate Māori representation?¹³
 - 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 communities' 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](#) on page 51).

¹² Not relevant if the electoral system was determined by poll for the last election.

¹³ 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 after three years with elected members (formally or informally).

Step 2: Consider preliminary consultation

- 9.5 Once a local authority is either required or has decided to carry out a representation review, it needs to consider whether to carry out preliminary consultation with the community (including local Māori) on the representation issues including:
- the electoral system
 - Māori representation
 - 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
 - the diversity of the population and the geographical 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, does it have the responsibilities of 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 or 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.
- 9.17 Steps 4 and 5 may need to be repeated a number of times until a proposal has been identified that best meets both criteria.

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

- 9.18 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.
- 9.19 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.
- 9.20 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

- 9.21 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*.
- 9.22 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.
- 9.23 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), 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.
- 9.24 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 should 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.
- 9.25 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.
- 9.26 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
 - where the '+/-10% rule' has not been complied with the specific grounds for not complying and the supporting reasons for that decision
 - 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 recorded¹⁴) 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 is online [here](#). The rules of naming are covered in the NZGB's frameworks document [here](#). The New Zealand Gazetteer of Official Geographic Names can be searched [here](#).
- 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.¹⁵
- 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.
- 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

¹⁴ Recorded names are unofficial names that have been depicted in at least two official documents, e.g. maps or charts.

¹⁵ 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*.

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

Phone: (04) 460 0581
Email: wshaw@linz.govt.nz
Website: www.linz.govt.nz

Meshblocks

- 10.8 Under *sections 19T(b), 19U(b) and 19W(c), 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 Stats NZ releases new meshblock boundaries annually on the 1 January of each year. When reviewing their boundaries local authorities must use the most current meshblock boundaries. Not doing so risks proposing boundaries that cannot be accepted.
- 10.11 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
Website: www.stats.govt.nz

Use of population data

- 10.12 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.

10.13 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.

10.14 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.

10.15 Stats NZ will not provide estimates of population for individual meshblocks. However, estimates of population will be provided for existing electoral areas, proposed electoral areas (if an appropriate geographic description is provided), statistical areas¹⁶, and whole districts.

10.16 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.

10.17 Stats NZ charges a fee for the preparation of population estimates for areas that are not existing electoral subdivisions or statistical areas.

10.18 Enquiries regarding population estimates should be directed to:

Melissa Adams Phone: (03) 964 8348

Helen He Phone: (03) 964 8353

Post: Population Insights
Stats NZ Tatauranga Aotearoa Private Bag 4741
Christchurch

Email: info@stats.govt.nz

Website: www.stats.govt.nz

Informing relevant organisations

10.19 Each local authority needs to keep the following informed of its representation review's progress; the:

- Commission
- Surveyor-General, and
- Government Statistician.

¹⁶ Statistical areas are groupings of meshblocks devised for the reporting of statistical data for areas larger than individual meshblocks. Statistical area 2's (SA2) replace the former area units and area, generally, about the same size. Statistical area 1's (SA1) cover smaller areas the SA2's but usually include a number of meshblocks.

- 10.20 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*).
- 10.21 A copy of the public notice under *section 19Y* is also required to be sent to the Secretary for Local Government.
- 10.22 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.
- 10.23 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.
- 10.24 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

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, 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 review¹⁷. 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.

¹⁷ 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 enquiries 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 Where the only appeals received involve 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 Refer to [Appendix I: Appeals and objections hearing processes](#) on page 77 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 enquiries 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 areas (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, 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 arrangements 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.

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 boundaries¹⁸
 - 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.

¹⁸ Allotment is defined as having the same meaning given by *section 218(2)-(4)*, *Resource Management Act 1991* (see [Appendix J](#): on page 79).

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.¹⁹

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.

¹⁹ 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 Auckland Council carried out a representation review prior to the 2019 local elections and is not required to carry out a review prior to the 2022 local authorities. This chapter, however, applies to any future review carried by the Auckland Council.
- 14.2 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 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*).
- 14.3 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.
- 14.4 The following matters relating to local boards must be considered as part of the representation review process (*s19H(1)(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.
- 14.5 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.
- 14.6 These options are not available to the local boards established under the *Local Government (Auckland Council) Act 2009* (*s24(1)(h), LGA*).

- 14.7 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.
- 14.8 These arrangements do not apply to reviews subsequent to 2010. However, the arrangements in *section 19V(3)(a), Local Electoral Act 2001* now contain greater flexibility in respect of the '+/-10% rule' than was the case in 2010.
- 14.9 The provisions in *section 19JA, 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) 460 228
 Email: 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
 Website: www.linz.govt.nz

Stats NZ

Melissa Adams and Helen He (re population estimates)
 Email: info@stats.govt.nz

Jill Foster and Rachel Livingston (re meshblocks)
 Email: 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

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

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.

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.

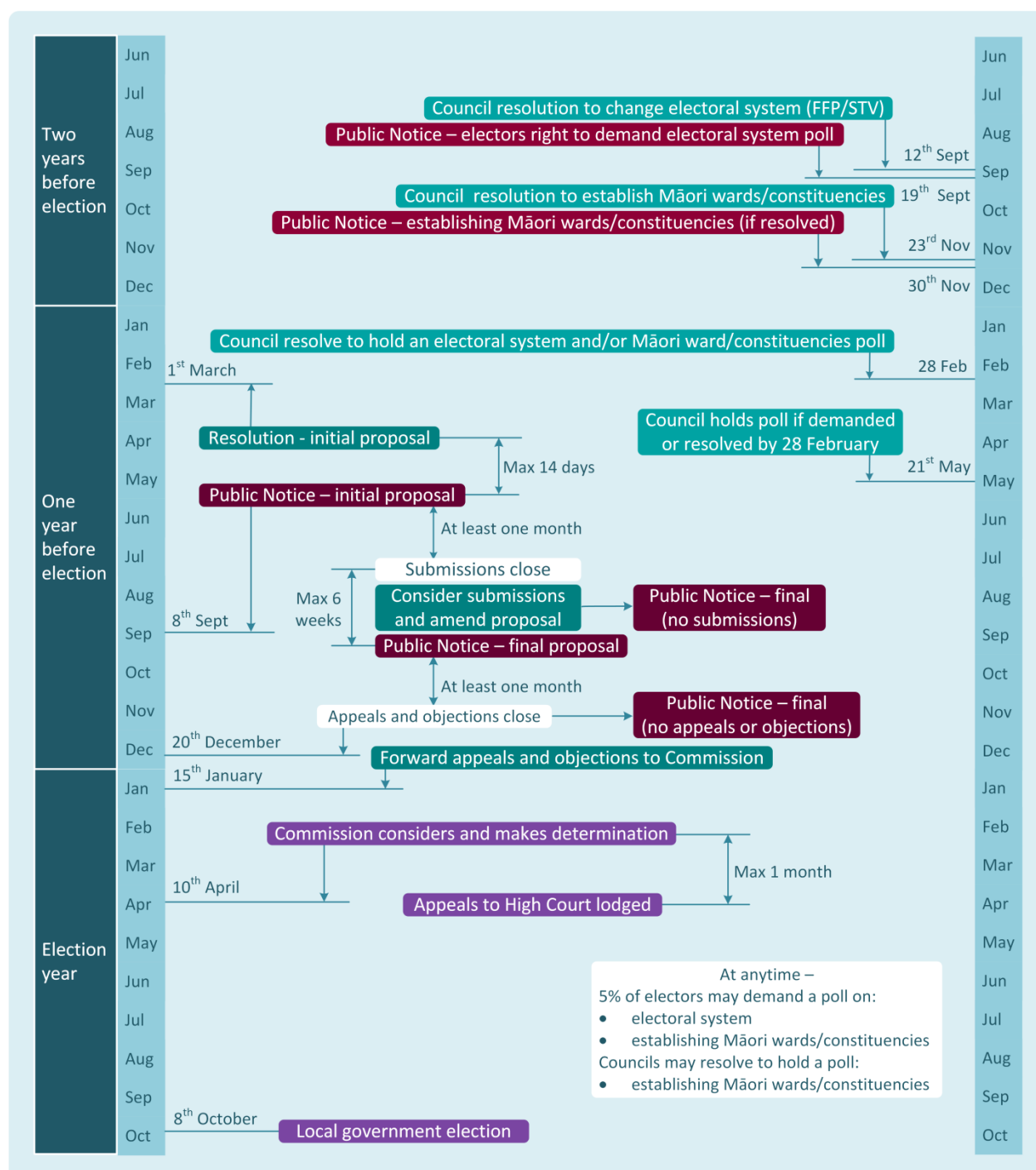


Figure 1: Timelines leading up to local government elections

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.

Most recently, for the 2019 elections, the Commission upheld the Napier City Council's proposal that it be elected entirely from wards but determined that the Hutt City Council should be elected from a mixed system instead of the previous ward system. The Masterton District Council resolved that it be elected at large instead of from a ward system. The Commission was not required to make a determination on that matter as no appeals against the proposal were lodged.

This meant that for those elections:

- 51 territorial authorities were elected by wards
- 12 were elected at large
- 4 were elected by a mixed system.

The information outlined above is summarised in the following table.

Election	Councils newly adopting at large systems	Councils newly adopting mixed systems	Number of councils elected solely 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 (to 2019) Napier City (to 2019)	60
2010	Rotorua District		53
2013	Palmerston North City		52
2016	Dunedin City		51
2019	Masterton District	Hutt City	51

Appendix D: Criteria for reorganisation schemes

(as prescribed in *Schedule 3, Local Government Act 2002*)

10 Objectives that the Commission must consider in reorganisation investigation

In assessing the desirability of options for the reorganisation of local government within the affected area, the Commission must take into account how best to achieve—

- (a) better fulfilment of the purpose of local government as specified in section 10; and
- (b) productivity improvements within the affected local authorities; and
- (c) efficiencies and cost savings; and
- (d) assurance that any local authority established or changed has the resources necessary to enable it to effectively perform or exercise its responsibilities, duties, and powers; and
- (e) effective responses to the opportunities, needs, and circumstances of the affected areas; and
- (f) enhanced effectiveness, efficiency, and sustainability of local government services; and
- (g) better support for the ability of local and regional economies to develop and prosper; and
- (h) enhanced ability of local government to meet the changing needs of communities for governance and services into the future; and
- (i) effective provision for any co-governance and co-management arrangements that are established by legislation (including Treaty of Waitangi claim settlement legislation) and that are between local authorities and iwi or Māori organisations.

12 Commission may adopt reorganisation plan

- (2) In deciding whether to adopt a reorganisation plan, the Commission must have regard to—
 - (a) the scale of the potential benefits of the proposed changes in terms of the objectives set out in clause 10 and the likelihood of those benefits being realised; and
 - (b) the financial, disruption, and opportunity costs of implementing the proposed changes at the proposed time; and
 - (c) the risks and consequences of not implementing the proposed changes at the proposed time; and
 - (d) existing communities of interest and the extent to which the proposed changes will maintain linkages between communities (including iwi and hapū) and sites and resources of significance to them; and
 - (e) the degree and distribution of demonstrable public support for the proposed changes within communities in the affected area; and
 - (f) the degree and distribution of any public opposition to the proposed changes within communities in the affected area.

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 Local Electoral Act 2001*. A template is available on the Local Government Commission website www.lgc.govt.nz.

Nameless District Council

Initial proposal for representation arrangements for the 2022 local elections

On 28 August 2021 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 8 October 2022:

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 (2018 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
Total	41000	10	4100

In accordance with *section 19V(2), 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 (2018 census)	Members	Population per member
Hills Subdivision	3200	2	1600
Valley Subdivision	5800	4	1450
Total	9000	6	1500

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), Local Electoral 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 (2018 census)	Members	Population per member
Lakes Subdivision	4200	3	1400
Rivers Subdivision	4000	3	1333
Total	8200	6	1367

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), Local Electoral 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.

Relevant information is also available on the Council's website 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
- Fax - 01 234 9876.

Submissions must be received by Council no later than 8 October 2021.

Christine Jones
Chief Executive
4 September 2021

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, Local Electoral Act 2001*. A template is available on the Local Government Commission website www.lgc.govt.nz.

Nameless District Council

Final proposal for representation arrangements for the 2022 local elections

Submissions

On 30 October 2021 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 8 October 2022.

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 (2018 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
Total	41000	10	4100

In accordance with *section 19V(2), 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 (2018 census)	Members	Population per member
Hills Subdivision	3200	2	1600
Valley Subdivision	5800	4	1450
Total	9000	6	1500

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), Local Electoral 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 (2018 census)	Members	Population per member
Lakes Subdivision	4200	3	1400
Rivers Subdivision	4000	3	1333
Total	8200	6	1367

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), Local Electoral 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
- 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 2021

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), 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.

Nameless District Council

Final representation arrangements - 2022 local elections

On 28 August 2021 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 8 October 2022.

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 8 October 2022.

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 (2018 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
Total	41000	10	4100

In accordance with *section 19V(2), 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 (2018 census)	Members	Population per member
Hills Subdivision	3200	2	1600
Valley Subdivision	5800	4	1450
Total	9000	6	1500

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), Local Electoral 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 (2019 census)	Members	Population per member
Lakes Subdivision	4200	3	1400
Rivers Subdivision	4000	3	1333
Total	8200	6	1367

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), Local Electoral 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
- Fax - 01 234 9876.

Christine Jones
Chief Executive
6 November 2021

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), 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.

Nameless District Council

Final representation arrangements - 2022 local elections

On 6 November 2021 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 8 October 2022. 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 2022 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 (2019 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
Total	41000	10	4100

In accordance with *section 19V(2), 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 (2018 census)	Members	Population per member
Hills Subdivision	3200	2	1600
Valley Subdivision	5800	4	1450
Total	9000	6	1500

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), Local Electoral 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 (2018 census)	Members	Population per member
Lakes Subdivision	4200	3	1400
Rivers Subdivision	4000	3	1333
Total	8200	6	1367

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), Local Electoral 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
- Fax - 01 234 9876.

Chris Jones
Chief Executive
18 December 2021

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 formally 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. Ideally each party should 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 2017 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 subpart 6 of Part 3 of the Land Transfer Act 2017; or
 - (c) any unit on a unit plan; or
 - (d) any parcel of land not subject to the Land Transfer Act 2017.
- (3) For the purposes of subsection (2), an allotment that is—
- (a) subject to the Land Transfer Act 2017 and is comprised in 1 record of title or for which 1 record 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.

Local Government Commission
Mana Kāwanatanga ā Rohe
PO Box 5362, Wellington 6140, New Zealand

Phone: +64 4 460 2228

Web: www.lgc.govt.nz

email: info@lgc.govt.nz

REPORT

TO: Representation Review Subcommittee

FOR: Inaugural Meeting – 19 August 2020

FROM: Deputy Electoral Officer

DATE: 10 August 2020

SUBJECT: CHOOSING OF AN ELECTORAL SYSTEM

RECOMMENDATION

‘That the Representation Review Subcommittee recommends to Council to resolve to confirm continued use of First Past the Post (FPP) for the 2022 and 2025 local government triennial elections.’

1. PURPOSE

Selwyn District Council is required to undertake a Representation Review prior to the 2022 local elections, under the provisions of the Local Electoral Act 2001 and the Local Government Act 2002.

The Local Electoral Act provides for local authorities and their communities to choose their electoral system for local elections.

The purpose of this report is to provide information to allow the Council to give consideration to the choice of electoral system for the next two elections. Although not a formal part of the Representation Review process, if the Council chooses to change the electoral system it must resolve to do so no later than 12 September 2020, and publicly notify the decision no later than 19 September.

If the Council decides to retain the existing system it is not required to make any resolution in respect of the electoral system, but may choose to do so.

Regardless of its decision on electoral system, it must give public notification of the right for electors to demand an electoral system poll, no later than 19 September.

2. BACKGROUND

The Local Electoral Act 2001 provides for local authorities to hold their local elections under one of the following electoral systems:

- first past the post (FPP) or,
- single transferable vote (STV)

Selwyn District Council currently holds its elections under the first past the post (FPP) system. This was confirmed through the Representation Review process conducted prior to the 2016 local elections.

District health boards, which conduct their elections in conjunction with the local authority elections, are currently required by law to use the STV electoral system. Out of the 78 local, regional and unitary councils in New Zealand, 67 used the FPP system in the 2019 local elections, and 11 used the STV system. Neighbouring councils including Waimakariri District, Christchurch City and Ashburton District all currently use the FPP system.

A schedule of councils and their respective electoral systems as at the 2019 local elections is attached at Appendix 1.

3. THE LOCAL ELECTORAL ACT 2001

The statutory provisions for changing the electoral system are set out in sections 27 to 34, Local Electoral Act 2001 (copy attached at Appendix 2).

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)

A territorial authority's chosen electoral system also applies to the election of members of any local boards or community boards.

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.

4. KEY STATUTORY PROVISIONS FOR CHANGING ELECTORAL SYSTEMS

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

Who	Provision	Timing	Section
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
local authority	may resolve to hold an electoral system poll	no later than 21 February the year before election year	31

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).

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.

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.

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 should be considered as part of the overall review of representation.

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.

So that this can be considered during the review process, choosing an electoral system should occur before:

- the representation review
- decisions on establishment of Māori wards/constituencies.

5. CHARACTERISTICS OF ELECTORAL SYSTEMS

The following brief table summarising the characteristics of each system is taken from The Local Government Electoral Option 2008, prepared for the Department of Internal Affairs, the Society of Local Government Managers Electoral Working Party and Local Government New Zealand.

A copy of the full document is attached at Appendix 3.

FPP	STV
<p>FPP: casting a vote</p> <ul style="list-style-type: none"> • You place ticks equal to the number of vacancies next to the candidate(s) you wish to vote for. • In multi-member wards/constituencies you cast one vote for each vacancy to be filled, as above. • In single-member wards/constituencies you cast one vote. <p>FPP: counting votes</p> <ul style="list-style-type: none"> • The candidate(s) with the most votes win(s). Each winning candidate is unlikely to have a majority of votes, just the largest number of votes cast. 	<p>STV: casting a vote</p> <ul style="list-style-type: none"> • You cast one <i>single</i> vote regardless of the number of vacancies. • You cast this <i>single</i> vote by consecutively 'ranking' your preferred candidates beginning with your most preferred candidate ('1') your next preferred candidate ('2') and so on. • In multi-member wards/constituencies you cast a <i>single</i> vote by ranking as few or as many candidates as you wish, as above. • In single-member wards/constituencies you cast a <i>single</i> vote by ranking as few or as many candidates as you wish. <p>STV: counting votes</p> <ul style="list-style-type: none"> • The candidate(s) are elected by reaching the 'quota' (the number of votes required to be elected).² • Vote counting is carried out by computer.³ • First preference votes ('1s') are counted. Candidates who reach the quota are 'elected'. The 'surplus' votes for elected candidates are transferred according to voters' second preferences. Candidates who reach the quota by including second preferences are 'elected'. This process repeats until the required number of candidates is elected.⁴

FPP	STV
<p>FPP: announcing results</p> <ul style="list-style-type: none"> FPP results can usually be announced soon after voting ends. Results are announced and published showing the total votes received by each candidate. 	<ul style="list-style-type: none"> In multi-member constituencies, despite voters casting only a <i>single</i> vote, a voter may influence the election of more than one representative (if their vote can be transferred to other candidates according to voters' preferences) <p>STV: announcing results</p> <ul style="list-style-type: none"> Because vote counting is multi-part, it is likely to take longer than for FPP election results. Results are announced and published showing elected candidates in the order they reached the quota and unsuccessful candidates in the reverse order they were excluded. All elected candidates will have the same share of the vote.

6. OPTIONS

The Council has the following choices:

- Take no action
- Confirm FPP by passing a resolution to that effect
- Change its electoral system from STV to FPP
- Resolve to hold a poll on the matter

Regardless of which choice the Council makes from the above list, the Council must give public notice by 19 September 2020 of the right for 5% of electors to demand a poll on the electoral system to be used at the 2022 and 2025 local general elections.

a) Option One – Take no action

If the Council makes no decision on this matter, then FPP will continue to be the electoral system for the 2022 local general election, unless 5% of the electors demand that a poll be held. The last date a poll can be held to take effect for the 2022 triennial election is 21 May 2021. The outcome of a poll is binding on Council for both the 2022 and 2025 triennial elections.

b) Option Two – Resolve to confirm FPP as the electoral system

The Council makes a resolution confirming its continued use of FPP for the 2022 triennial election. Such a resolution would be required by 12 September 2020.

c) Option Three – Resolve to change electoral system from FPP to STV

Should the Council wish to change its electoral system to STV, such a decision must be made by 12 September 2020, and it would apply for the 2022 and 2025 elections. The public would then be given the opportunity to demand a poll on the electoral system.

(Note: the Council's Electoral Officer has estimated that under an STV election the cost of vote processing would increase by around 25%, ie around \$8000 to \$10,000.)

d) Option Four – Hold a poll on the electoral system

The Council could resolve to conduct a poll on the electoral system to be used for the 2022 and 2025 triennial elections. Such a resolution would need to be made no later than 21 February 2021, with a poll date no later than 21 May 2021. The outcome of the poll would apply for both the 2022 and 2025 triennial elections with no change possible until the 2028 triennial election.

(Note: No costings have been sought as to the cost implications of holding a poll, however one North Island council recently estimated the cost of a stand-alone poll at \$85,000 or \$9,000 if held in conjunction with the 2022 triennial election.)



Stephen Hill

**GROUP MANAGER COMMUNICATION AND CUSTOMERS |
DEPUTY ELECTORAL OFFICER**

The Local Government Electoral Option 2008

This guide was prepared for the Department of Internal Affairs,
the Society of Local Government Managers Electoral Working Party
and Local Government New Zealand
by Dr Janine Hayward
Senior Lecturer/Pukenga Matua
Department of Politics/Te Tari Torangapu
University of Otago/Te Whare Wananga o Otago

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Contact details for Dr Hayward are:

PO Box 56/Pouaka Poutapeta 56

Dunedin/Otepoti

Tel/Waea 63 3 479 8666

janine.hayward@otago.ac.nz

Introduction

The Local Electoral Act 2001 offers the choice between two electoral systems for local government elections: first past the post (FPP) and the single transferable vote (STV).

The option was first offered for the 2004 local government elections. As a result of that option, ten city/district councils used STV at the 2004 elections (Kaipara, Papakura, Matamata-Piako, Thames-Coromandel, Kapiti Coast, Porirua, Wellington, Marlborough, Dunedin and the Chatham Islands). After the 2004 election, two councils (Papakura and Matamata-Piako) resolved to change back to FPP. The remaining eight councils used STV at the 2007 elections.

Councils now have the option to decide, by 12 September 2008, whether to stay with their current electoral system (either FPP or STV), or whether to change to the alternative system for the 2010 elections.¹

Whether or not a council passes a resolution by 12 September 2008, it must give public notice by 19 September of the right for 5% of electors to demand a poll on the electoral system to be used at the 2010 local elections.

This guide has been developed to help councils reach their decision. It is also intended to provide a basis for information to help local communities understand the issues. Communities have an important role to play in the decision. They must be consulted by way of public notice and may be polled on their preferred electoral system or demand a poll themselves.

The guide includes:

1. a brief description of the two electoral systems including important differences
2. some commonly identified advantages and disadvantages of each electoral system
3. responses to common concerns and questions councils and the public have raised about each electoral system and the electoral option.

This guide does not intend to influence councils either way in their decision-making. It presents arguments for and against both systems and encourages councils to make an informed choice about the electoral system best suited for their community.

¹ This option does not apply for any council that for the 2007 elections had the electoral system determined by way of a poll. The outcome of such a poll applies for two triennial elections i.e. 2007 and 2010.

1. The Choice: First Past the Post (FPP) or the Single Transferable Vote (STV)

(a) How do the two electoral systems work?

FPP	STV
<p>FPP: casting a vote</p> <ul style="list-style-type: none"> You place ticks equal to the number of vacancies next to the candidate(s) you wish to vote for. In multi-member wards/constituencies you cast one vote for each vacancy to be filled, as above. In single-member wards/constituencies you cast one vote. <p>FPP: counting votes</p> <ul style="list-style-type: none"> The candidate(s) with the most votes win(s). Each winning candidate is unlikely to have a majority of votes, just the largest number of votes cast. 	<p>STV: casting a vote</p> <ul style="list-style-type: none"> You cast one <i>single</i> vote regardless of the number of vacancies. You cast this <i>single</i> vote by consecutively ‘ranking’ your preferred candidates beginning with your most preferred candidate (‘1’) your next preferred candidate (‘2’) and so on. In multi-member wards/constituencies you cast a <i>single</i> vote by ranking as few or as many candidates as you wish, as above. In single-member wards/constituencies you cast a <i>single</i> vote by ranking as few or as many candidates as you wish. <p>STV: counting votes</p> <ul style="list-style-type: none"> The candidate(s) are elected by reaching the ‘quota’ (the number of votes required to be elected).² Vote counting is carried out by computer.³ First preference votes (‘1s’) are counted. Candidates who reach the quota are ‘elected’. The ‘surplus’ votes for elected candidates are transferred according to voters’ second preferences. Candidates who reach the quota by including second preferences are ‘elected’. This process repeats until the required number of candidates is elected.⁴

² The quota is calculated using the total number of valid votes cast and the number of vacancies.

³ The New Zealand method of STV uses the ‘Meek method’ of counting votes. Because this method transfers proportions of votes between candidates, it requires a computer program (the STV calculator).

⁴ If at any point there are no surpluses left to transfer, the candidate with the lowest number of votes is excluded and the votes redistributed according to voters’ next preferences. For further information on the details of vote counting, see, for example, STV Taskforce, ‘Choosing Electoral Systems in Local Government in New Zealand: A Resource Document’, (May 2002).

FPP	STV
<p>FPP: announcing results</p> <ul style="list-style-type: none"> • FPP results can usually be announced soon after voting ends. • Results are announced and published showing the total votes received by each candidate. 	<ul style="list-style-type: none"> • In multi-member constituencies, despite voters casting only a <i>single</i> vote, a voter may influence the election of more than one representative (if their vote can be transferred to other candidates according to voters' preferences) <p>STV: announcing results</p> <ul style="list-style-type: none"> • Because vote counting is multi-part, it is likely to take longer than for FPP election results. • Results are announced and published showing elected candidates in the order they reached the quota and unsuccessful candidates in the reverse order they were excluded. All elected candidates will have the same share of the vote.

(b) What are the most important differences between the two electoral systems?

To understand the important differences between the two electoral systems it is helpful to think about what happens to 'wasted votes' in both cases. A 'wasted vote' is a vote that does not help to elect a candidate. This might be because the candidate was very popular (so did not need all the votes received), or was very unpopular (and had no chance of being elected).

Let's imagine that you vote in a local government FPP election to fill two vacancies, with four candidates standing for election. You vote for Candidates A and B. Imagine Candidate A wins by a landslide and Candidate B is the least popular of all the candidates. The vote for the other candidate to be elected is very close between Candidates C and D; in the end Candidate D wins the second vacancy by a very small margin. Candidate D is your least preferred candidate.

You might think to yourself, once you see the results, 'I wish I had known that Candidate A didn't need my vote to win, and that Candidate B didn't have a chance of being elected as I would have voted differently. I may have still voted for Candidate A, but would have voted for Candidate C instead of Candidate B.'

Now imagine you vote in the same election using STV. You have a *single* transferable vote even though there are two positions to fill. Again Candidate A wins by a landslide and Candidate B is the least popular candidate. Candidates C and D are very close on first preference votes and so second and subsequent preferences become important.

You cast your vote by ranking the candidates according to your preferences; you rank Candidate A as '1', Candidate B as '2' and Candidate C as '3'. You don't rank candidate D at all because you don't want that candidate to be elected. Under STV:

- Candidate A is very popular and is elected on first preferences
- Candidate A has votes surplus to the number required to reach the quota and these are transferred according to voters' second preferences
- the surplus portion of your vote for Candidate A is transferred to your second preference, Candidate B
- both Candidates C and D are very close to the quota at this point and Candidate B is least popular
- Candidate B is excluded and the proportion of your vote for this candidate is transferred to your third preference, Candidate C
- when preferences are counted again Candidate C reaches the quota and is elected.

Under STV, unlike the FPP election, your ranking of the candidates made your vote more effective and avoided it being 'wasted' on Candidates A (who had a surplus of first preference votes) and B (who was excluded once surplus votes from Candidate A were transferred). In other words, despite Candidates A and B being your most preferred candidates, under STV you were also able to influence the race between Candidates C and D because you showed a preference between them on your voting document.⁵

These election results reveal an important difference between FPP and STV electoral systems. Think again about your FPP vote. You voted for two candidates to fill two vacancies. If you are part of the largest group of like-minded voters, even if that group is not the majority, you could determine the election of both candidates. Other voters (from perhaps only slightly smaller groups) won't have gained any representation at all.

In the STV election, however, you cast only one *single* transferable vote, even in multi-member wards/constituencies. That vote is used to greater effect as long as you rank all the candidates you like in order of preference. Because your vote is a single vote that can be transferred in whole or in part according to your wishes, you and other voters will not be over-represented or under-represented. This is why STV, unlike FPP, in multi-member wards or constituencies, is called a proportional representation system. The outcomes potentially better reflect community views.

⁵ These scenarios oversimplify how the vote count actually works under NZSTV, in order to explain the principle of vote transfers. The STV calculator uses a complex mathematical set of rules to ensure that the appropriate proportions of votes are transferred between candidates.

2. What are the advantages and disadvantages of each system?

No electoral system is perfect. Both FPP and STV have advantages and disadvantages.

Overall, the advantages of STV relate to the people who get elected using STV.⁶ The system potentially achieves:

- broad proportionality (in multi-member wards/constituencies)
- majority outcomes in single-member elections
- more equitable minority representation
- a reduction in the number of wasted votes.

The disadvantages of STV relate to:

- the public being less familiar with the system and possibly finding it harder to understand
- matters of process such as the way votes are cast and counted (for example perceived complexity may discourage some voters)
- the information conveyed in election results.

The advantages of FPP, on the other hand, relate to the simplicity of the process including the ways votes are cast, counted and announced.

The disadvantages of FPP relate to:

- the results of the election, including the generally 'less representative' nature of FPP councils
- the obstacles to minority candidate election
- the number of wasted votes.

Deciding which electoral system is best for your community may come down to deciding which is more important: process, or outcome. Unfortunately, neither electoral system can claim to achieve well in both.

⁶ For further discussion, see Graham Bush, 'STV and local body elections – a mission probable?' in J. Drage (ed), *Empowering Communities? Representation and Participation in New Zealand's Local Government*, pp 45–64 (Wellington: Victoria University Press, 2002).

More detailed advantages and disadvantages

FPP	STV
<p>FPP: casting votes</p> <ul style="list-style-type: none"> • FPP is a straightforward system of voting. • FPP is familiar to most people. • ‘Tactical’ voting is possible; votes can be used with a view to preventing a candidate from winning in certain circumstances. <p>FPP: counting votes</p> <ul style="list-style-type: none"> • FPP is a straightforward system for counting votes. • Votes can be counted in different locations and then aggregated. • Election results are usually announced soon after voting ends. <p>FPP: election results</p> <ul style="list-style-type: none"> • Official results show exactly how many people voted for which candidates. • Results are easy to understand. • A ‘block’ of like-minded voters can determine the election of multiple candidates in multi-member wards/constituencies, without having a majority of the votes, thereby ‘over-representing’ themselves. • The overall election results will not be proportional to voters’ wishes, and will not reflect the electoral wishes of the <i>majority</i> of voters, only the <i>largest group</i> of voters who may not be the majority. 	<p>STV: casting votes</p> <ul style="list-style-type: none"> • STV is a less straightforward system of voting. • There is a need for more information for people to understand the STV ranking system of candidates. • It is virtually impossible to cast a ‘tactical’ vote under STV. As a result, voters are encouraged to express their true preferences. <p>STV: counting votes</p> <ul style="list-style-type: none"> • STV vote counting requires a computer program (the STV calculator). • Votes must be aggregated first and then counted in one location. • Election results will usually take a little longer to produce. <p>STV: election results</p> <ul style="list-style-type: none"> • Official results will identify which candidates have been elected and which have not and in which order. They do not show how many votes candidates got overall, as all successful candidates will have the same proportion of the vote (the quota). This information, at stages of the count, can still be requested. • Results can be easy to understand if presented appropriately. • STV moderates ‘block’ voting as each voter casts only one <i>single</i> vote, even in multi-member wards/constituencies. • The overall election results reflect the wishes of the majority of voters in proportion to their support for a variety of candidates.

FPP	STV
<ul style="list-style-type: none"> • In single-member elections, the winner is unlikely to have the majority of votes, just the largest group of votes. • There will be more ‘wasted’ votes (votes that do not contribute to the election of a candidate). 	<ul style="list-style-type: none"> • In single-member wards/constituencies, the winner will have the majority of votes (preferences). • Every vote is as effective as possible (depending on the number of preferences indicated) meaning there are fewer ‘wasted votes’ and more votes will contribute to the election of a candidate than under FPP.

3. Common Questions and Concerns

FPP ain’t broke: so why fix it?

For those voters supporting candidates who tend to get elected under FPP, it can appear that there is nothing wrong with this system. But FPP councils do not truly ‘represent’ their community in terms of their composition. STV is a proportional representation voting system that means (if a diversity of candidates stand for election and a diversity of electors vote) the candidates elected will better represent the wishes of a greater number, and a wider diversity of voters.

FPP is easy to understand. I can’t trust a complicated system like STV.

It is true that FPP is a very easy way to vote, and to count votes. Voting under STV is less straightforward, but as long as a voter knows how to rank their preferred candidates, they will find it easy to vote. A post-election survey has found that most people found it easy to fill in the STV voting document and rank their preferred candidates.⁷ The way votes are counted is complicated. That is why it requires a computer program (STV calculator). The STV calculator has been independently certified and voters *can* trust that it only transfers a vote according to voters’ preferences ranked on their voting documents. Nothing (and no person) can influence the transfer of votes set out on voting documents.

Won’t voters be put off if the voting system is too complicated?

Voter turnout (the number of people voting) in 2004 and 2007 in the STV local body elections was mixed. Some councils’ turnout was higher than the national average, and some lower.⁸ Turnout for DHB elections (which must use STV) can be seen to be

⁷ Local Government Commission, ‘Report to the Minister of Local Government on the review of the local Government Act 2002 and the Local Electoral Act 2001: Special topic paper: Representation’ (February 2008), p 14

⁸ Local Government Commission, ‘Report to the Minister of Local Government on the review of the Local Government Act 2002 and the Local Electoral Act 2001: Special topic paper: Representation’ (February 2008), p 13

influenced by a range of factors including elections being at large for seven vacancies, the number of candidates (and often less well-known than council candidates) and the fact this issue is usually at the end of the voting document).

Overall, voter turnout has been on the decline for many years. It is possible that *more* voters would turn out to local elections in the future if they feel with STV they have a better chance of electing a representative who better represents them than FPP has in the past.

Won't there be more blank and informal votes under STV, which is not good for democracy?

Despite voters saying in the Local Government Commission survey that they generally found STV an easy way to vote, some voters did cast an invalid vote in STV elections (including DHB elections). A small proportion of these voters seemed confused by the voting system. But most blank and informal votes are thought to be due to two different voting systems (FPP and STV) appearing on the same voting document and to other factors, rather than being due to the way STV votes are cast.⁹

STV will not work for our council because of our ward/at large system.

Eight of the ten councils using STV in 2004 had wards, one used the at large system, and one had a combination of wards and at large. There is no 'rule' about the need or otherwise for wards or constituencies, but STV can be seen to provide the greatest benefit in wards or constituencies of between three and nine candidates. If there are fewer than three candidates, the benefits of the transferable vote in terms of proportionality are not likely to be evident. If there are a very large number of candidates to choose from, voters are likely to find it a more difficult task to rank preferred candidates (though there is no need to rank all candidates).

STV hasn't made any difference to the diversity of representation in STV councils

Until a greater variety of people stand for local body election and a wide diversity of electors vote, no representation system will be able to improve the diversity of representatives elected. There has been some change in the gender, ethnicity and age of some members elected by STV in 2004 and 2007 which may be due to STV.¹⁰ But it will take some time for a diversity of candidates to see the opportunities of standing in an STV election and more electors to see the potential benefits of voting under a proportional representation system. Two elections in a small number of councils is not enough time to judge the difference STV could make over time.

⁹ Local Government Commission, 'Report to the Minister of Local Government on the review of the Local Government Act 2002 and the Local Electoral Act 2001: Special topic paper: Representation' (February 2008), pp 13–18

¹⁰ Local Government Commission, 'Report to the Minister of Local Government on the review of the Local Government Act 2002 and the Local Electoral Act 2001: Special topic paper: Representation' (February 2008), pp 18–19

Useful resources

Graham Bush, 'STV and local body elections – a mission probable?' in J. Drage (ed), *Empowering Communities? Representation and Participation in New Zealand's Local Government*, pp 45–64 (Wellington: Victoria University Press, 2002).

Local Government Commission, 'Report to the Minister of Local Government on the review of the Local Government Act 2002 and the Local Electoral Act 2001: Special topic paper: Representation' (February 2008)

(Note: this paper has now been withdrawn from the Commission's website but its contents may be found in the Commission's main report on its review of the above legislation which will be posted on its website in the near future at www.lgc.govt.nz.)

Justice and Electoral Committee, 'Inquiry into the 2004 local authority elections' reported to Parliament in August 2005.

Christine Cheyne and Margie Comrie, 'Empowerment for Encumbrance? Exercising the STV Options for local Authority Elections in New Zealand, *Local Government Studies*, Vol. 31, No. 2, 185-204, (April 2005).

STV Taskforce (The Department of Internal Affairs, Ministry of Health, SOLGM, Electoral Commission and Local Government New Zealand), 'Choosing Electoral Systems in Local Government in New Zealand: A Resource Document', (May 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)]

Appendix 1: Electoral Systems used in 2019 local elections

First Past the Post:	Ashburton District Council
	Auckland Council
	Buller District Council
	Carterton District Council
	Central Hawkes Bay District Council
	Central Otago District Council
	Chatham Islands Council
	Christchurch City Council
	Clutha District Council
	Environment Bay of Plenty
	Environment Southland
	Environment Waikato
	Far North District Council
	Franklin District Council
	Gisborne District Council
	Gore District Council
	Grey District Council
	Hamilton City Council
	Hastings District Council
	Hauraki District Council
	Hawkes Bay Regional Council
	Horizons Regional Council
	Horowhenua District Council
	Hurunui District Council
	Hutt City Council
	Invercargill City Council
	Kaikoura District Council
	Kawerau District Council
	Manawatu District Council
	Masterton District Council
	Matamata Piako District Council
	McKenzie District Council
	Napier City Council
	Nelson City Council
	Northland Regional Council
	Opotiki District Council
	Otago Regional Council
	Otorohanga District Council
	Queenstown-Lakes District Council
	Rangitikei District Council
	Rotorua District Council
	Selwyn District Council
	South Taranaki District Council
	South Waikato District Council
	South Wairarapa District Council
	Southland District Council
	Stratford District Council
	Taranaki Regional Council
	Tararua District Council

Tasman District Council
 Taupo District Council
 Thames-Coromandel District Council
 Timaru District Council
 Upper Hutt City Council
 Waikato District Council
 Waimakariri District Council
 Waimate District Council
 Waipa District Council
 Wairoa District Council
 Waitaki District Council
 Waitomo District Council
 Wanganui District Council
 West Coast Regional Council
 Western Bay of Plenty District Council
 Westland District Council
 Whakatane District Council
 Whangarei District Council

Single
Transferable
Vote (STV):

Dunedin City Council
 Kaipara District Council
 Kapiti Coast District Council
 Marlborough District Council
 New Plymouth District Council (1st time)
 Porirua City Council
 Ruapehu District Council (1st time)
 Tauranga City Council (1st time)
 Wellington City Council
 Greater Wellington Regional Council
 Palmerston North City Council

*Electoral systems for elections***27 Local authority may resolve to change electoral systems**

- (1) Any local authority may, not later than 12 September in the year that is 2 years before the year in which the next triennial general election is to be held, resolve that the next 2 triennial general elections of the local authority and its local boards or community boards (if any), and any associated election, will be held using a specified electoral system other than that used for the previous triennial general election.
- (2) A resolution under this section—
 - (a) takes effect, subject to paragraph (b), for the next 2 triennial general elections of the local authority and its local boards or community boards (if any), and any associated election; and
 - (b) continues in effect until either—
 - (i) a further resolution under this section takes effect; or
 - (ii) a poll of electors of the local authority held under section 33 takes effect.
- (3) This section is subject to section 32.
- (4) In this section, and in sections 28 to 34, **associated election**, in relation to any 2 successive triennial general elections of a local authority (and its local boards or community boards (if any)), means—
 - (a) any election to fill an extraordinary vacancy in the membership of the body concerned that is held—
 - (i) between those elections; or
 - (ii) after the second of those elections but before the subsequent triennial general election:
 - (b) an election of the members of the body concerned called under section 258I or 258M of the Local Government Act 2002 that is held—
 - (i) between those elections; or
 - (ii) after the second of those elections but before the subsequent triennial general election.

Section 27(1): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 27(1): amended, on 25 December 2002, by section 9(1) of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 27(2)(a): substituted, on 25 December 2002, by section 9(2) of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 27(2)(a): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 27(2)(b)(ii): amended, on 25 December 2002, by section 9(3) of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 27(4): added, on 25 December 2002, by section 9(4) of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 27(4): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 27(4)(b): amended, on 5 December 2012, by section 43 of the Local Government Act 2002 Amendment Act 2012 (2012 No 93).

28 Public notice of right to demand poll on electoral system

- (1) Every local authority must, not later than 19 September in the year that is 2 years before the year in which the next triennial general election is to be held, give public notice of the right to demand, under section 29, a poll on the electoral system to be used for the elections of the local authority and its local boards or community boards (if any).
- (2) If the local authority has passed a resolution under section 27 that takes effect at the next triennial election, every notice under subsection (1) must include—
 - (a) notice of that resolution; and
 - (b) a statement that a poll is required to countermand that resolution.
- (2A) Despite subsections (1) and (2), if, on or before the date referred to in subsection (1), the local authority has passed a resolution under section 31 and has specified a date for the holding of the poll that is on or before 21 May in the year before the next triennial general election, subsection (1) does not apply.
- (3) This section is subject to section 32.

Section 28(1): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 28(1): amended, on 25 December 2002, by section 10(1) of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 28(2): amended, on 25 December 2002, by section 10(2) of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 28(2A): inserted, on 25 December 2002, by section 10(3) of the Local Electoral Amendment Act 2002 (2002 No 85).

29 Electors may demand poll

- (1) A specified number of electors of a local authority may, at any time, demand that a poll be held on a proposal by those electors that a specified electoral system be used at the elections of the local authority and its local boards or community boards (if any).
- (2) This section is subject to section 32.
- (3) In this section and sections 30 and 31,—

demand means a demand referred to in subsection (1)

specified number of electors, in relation to a local authority, means a number of electors equal to or greater than 5% of the number of electors enrolled as eligible to vote at the previous general election of the local authority.

Section 29(1): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 29(1): amended, on 25 December 2002, by section 11 of the Local Electoral Amendment Act 2002 (2002 No 85).

30 Requirements for valid demand

- (1) A demand must be made by notice in writing—
 - (a) signed by a specified number of electors; and
 - (b) delivered to the principal office of the local authority.
- (2) An elector may sign a demand and be treated as one of the specified number of electors only if—
 - (a) the name of that elector appears,—
 - (i) in the case of a territorial authority, on the electoral roll of the territorial authority; and
 - (ii) in the case of any other local authority, on the electoral roll of any territorial authority or other local authority as the name of a person eligible to vote in an election of that local authority; or
 - (b) in a case where the name of an elector does not appear on a roll in accordance with paragraph (a),—
 - (i) the name of the elector is included on the most recently published electoral roll for any electoral district under the Electoral Act 1993 or is currently the subject of a direction by the Electoral Commission under section 115 of that Act (which relates to unpublished names); and
 - (ii) the address for which the elector is registered as a parliamentary elector is within the local government area of the local authority; or
 - (c) the address given by the elector who signed the demand is—
 - (i) confirmed by the Electoral Commission as the address at which the elector is registered as a parliamentary elector; and
 - (ii) within the district of the local authority; or
 - (d) the elector has enrolled, or has been nominated, as a ratepayer elector and is qualified to vote as a ratepayer elector in elections of the local authority.
- (3) Every elector who signs a demand must state, against his or her signature,—
 - (a) the elector's name; and
 - (b) the address for which the person is qualified as an elector of the local authority.
- (3A) If a valid demand is received after 21 February in the year before the next triennial general election, the poll required by the demand—

- (a) must be held after 21 May in that year; and
 - (b) has effect in accordance with section 34(2) (which provides that the poll has effect for the purposes of the next but one triennial general election of the local authority and the subsequent triennial general election).
- (4) The chief executive of the local authority must, as soon as is practicable, give notice to the electoral officer of every valid demand for a poll made in accordance with section 29 and this section.
- (5) This section is subject to section 32.

Section 30(1)(b): substituted, on 25 December 2002, by section 12(1) of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 30(2)(b)(i): amended, on 1 July 2012, by section 58(5) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 30(2)(c)(i): amended, on 21 March 2017, by section 114 of the Electoral Amendment Act 2017 (2017 No 9).

Section 30(3A): inserted, on 25 December 2002, by section 12(2) of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 30(3A): amended, on 26 March 2015, by section 6 of the Local Electoral Amendment Act 2015 (2015 No 19).

Section 30(4): amended, on 25 December 2002, by section 12(3) of the Local Electoral Amendment Act 2002 (2002 No 85).

31 Local authority may resolve to hold poll

- (1) A local authority may, no later than 21 February in the year immediately before the year in which the next triennial general election is to be held, resolve that a poll be held on a proposal that a specified electoral system be used for the elections of the local authority and its local boards or community boards (if any).
- (2) A resolution may, but need not, specify a date on which the poll is to be held.
- (2A) The date specified for the holding of a poll must not be a date that would require deferral of the poll under section 138A.
- (3) The chief executive of the local authority must give notice to the electoral officer of any resolution under subsection (1),—
- (a) if no date for the holding of the poll is specified in the resolution, as soon as is practicable;
 - (b) if a date for the holding of the poll is specified in the resolution, at an appropriate time that enables the poll to be conducted in accordance with section 33(3).
- (4) This section is subject to section 32.

Section 31(1): substituted, on 25 December 2002, by section 13(1) of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 31(1): amended, on 26 March 2015, by section 7 of the Local Electoral Amendment Act 2015 (2015 No 19).

Section 31(1): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 31(2): substituted, on 25 December 2002, by section 13(1) of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 31(2A): inserted, on 25 December 2002, by section 13(1) of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 31(3): substituted, on 25 December 2002, by section 13(2) of the Local Electoral Amendment Act 2002 (2002 No 85).

32 Limitation on change to electoral systems

Sections 27 to 31 do not apply if—

- (a) a poll on the proposal described in section 29 or section 31 held under section 33 took effect at the previous triennial general election of the local authority or takes effect at the next triennial general election of the local authority;
- (b) another enactment requires a particular electoral system to be used for the election of members of a local authority.

Section 32(a): substituted, on 25 December 2002, by section 14 of the Local Electoral Amendment Act 2002 (2002 No 85).

33 Poll of electors

- (1) If the electoral officer for a local authority receives notice under section 30(4) or section 31(3), the electoral officer must, as soon as is practicable after receiving that notice, give public notice of the poll under section 52.
- (2) Despite subsection (1), if an electoral officer for a local authority receives 1 or more notices under both sections 30(4) and 31(3), or more than 1 notice under either section, in any period between 2 triennial general elections, the polls required to be taken under each notice may, to the extent that the result of those polls would take effect at the same election, and if it is practicable to combine those polls, be combined.
- (3) A poll held under this section must be held not later than 89 days after the date on which—
 - (a) the notice referred to in subsection (1) is received; or
 - (b) the last notice referred to in subsection (2) is received.
- (3A) Subsection (3) is subject to subsection (2), section 30(3A) and section 138A.
- (3B) Voters at a poll held under this section decide the proposal or proposals that are the subject of the poll by voting for one of the electoral systems named in the voting document or, as the case may require, expressing a preference in respect of each of the electoral systems named in the voting document.
- (4) Every poll under this section that is held in conjunction with a triennial general election or held after that election but not later than 21 May in the year immediately before the year in which the next triennial general election is to be held determines whether the electoral system to be used for the next 2 triennial general elections of the local authority and its local boards or community boards (if any) and any associated election is to be—

- (a) the electoral system used at the previous general election of the local authority; or
 - (b) the electoral system specified in any resolution under section 27; or
 - (c) the electoral system specified in any demand submitted within the appropriate period of which the electoral officer has received notice under section 30(4) and, if notice of more than 1 such demand is received, one of the systems specified in those demands and, if so, which one; or
 - (d) the electoral system specified in any resolution of which the electoral officer has received notice under section 31(3).
- (5) Every poll under this section that is held at some other time determines whether the electoral system to be used at the next but one triennial general election of the local authority and its local boards or community boards (if any) and any associated election is to be—
- (a) the electoral system used at the previous general election of the local authority; or
 - (b) the electoral system specified in any resolution under section 27; or
 - (c) the electoral system specified in any demand submitted within the appropriate period of which the electoral officer has received notice under section 30(4) and, if notice of more than 1 such demand is received, one of the systems specified in those demands and, if so, which one; or
 - (d) the electoral system specified in any resolution of which the electoral officer has received notice under section 31(3).

Section 33(2): substituted, on 25 December 2002, by section 15(1) of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 33(3): amended, on 26 March 2015, by section 8 of the Local Electoral Amendment Act 2015 (2015 No 19).

Section 33(3A): inserted, on 25 December 2002, by section 15(2) of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 33(3B): inserted, on 25 December 2002, by section 15(2) of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 33(4): substituted, on 25 December 2002, by section 15(3) of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 33(4): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 33(5): added, on 25 December 2002, by section 15(3) of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 33(5): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

34 Effect of poll

- (1) If a poll is held under section 33 in conjunction with a triennial general election or held after that election but not later than 21 May in the year immediately

before the year in which the next triennial general election is to be held, the electoral system adopted or confirmed must be used—

- (a) for the next 2 triennial general elections:
 - (b) for any associated election:
 - (c) for all subsequent triennial general elections, elections to fill extraordinary vacancies, and elections called under section 258I or 258M of the Local Government Act 2002, until a further resolution under section 27 takes effect or a further poll held under section 33 takes effect, whichever occurs first.
- (2) If a poll is held under section 33 at some other time, the electoral system adopted or confirmed must be used—
- (a) for the next but one triennial general election and the following triennial general election:
 - (b) for any associated election:
 - (c) for all subsequent triennial general elections, elections to fill extraordinary vacancies, and elections called under section 258I or 258M of the Local Government Act 2002, until a further resolution under section 27 takes effect or a further poll held under section 33 takes effect, whichever occurs first.

Section 34: substituted, on 25 December 2002, by section 16 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 34(1)(c): amended, on 5 December 2012, by section 43 of the Local Government Act 2002 Amendment Act 2012 (2012 No 93).

Section 34(2)(c): amended, on 5 December 2012, by section 43 of the Local Government Act 2002 Amendment Act 2012 (2012 No 93).

Electoral systems for polls

35 Electoral systems for polls

- (1) Every poll conducted for a local authority must be conducted using an electoral system adopted by resolution of the local authority—
 - (a) for the purposes of the particular poll; or
 - (b) for the purposes of 2 or more polls that are to be conducted at the same time.
- (2) If a poll is to be conducted for a local authority and there is no applicable resolution, that poll must be conducted using the electoral system commonly known as First Past the Post.

REPORT

TO: Representation Review Subcommittee

FOR: Inaugural Meeting – 19 August 2020

FROM: Deputy Electoral Officer

DATE: 10 August 2020

SUBJECT: CONSIDERATION OF ESTABLISHING MĀORI WARDS OR CONSTITUENCIES

RECOMMENDATION

‘That the Representation Review Subcommittee recommends to Council to resolve that no Māori Ward be established for the 2022 and 2025 local government triennial elections.’

1. PURPOSE

The purpose of this report is to provide background information on the process for any Council decision on the establishment of Māori wards or constituencies, prior to the 2022 triennial local elections, and to assist in preliminary discussions with mana whenua prior to any such decision.

The Local Electoral Act provides for decisions on the establishment of Māori wards or constituencies to be made apart from, and prior to, the formal representation review process.

2. BACKGROUND

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, Local Electoral Act 2001.

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.

If the Council chooses to make a resolution on Māori representation to be effective for the 2022 local election, it must do so no later than 23 November and must publicly notify the resolution, including public notice of the right to demand a poll.

A valid demand for a poll must be received by 21 February 2021 or the Council can also decide to hold a poll by 21 February 2021. This is notified to the Electoral Officer and

the poll must be held not later than 89 days after the notification, i.e. not later than 21 May 2021.

The results of the poll are binding and take effect for the next two elections, i.e. 2022 and 2025. If the poll fails to establish a Māori ward this will not be considered for another six years.

Notes:

- At the Council's last Representation Review in 2016 the Representation Review Sub-Committee noted that during discussions and subsequent informal discussions with the local Rūnanga, there was no expressed desire to consider a change to the ward structure.
- 2018 Census data (Statistics NZ) indicates that of the then total population of Selwyn district (60,561), 4,788 (7.9%) identify as Māori (2016: 3,036).
- Three councils in New Zealand had Māori representation at the 2019 local elections: Bay of Plenty Regional Council (introduced 2001 by specific legislation), Waikato Regional Council (introduced 2013 by Council resolution – no poll received in response to council resolution) and Wairoa District Council (result of poll in 2016 50% for, 42.5% against).
- The Society of Local Government Managers (SOLGM) included in its submission to the Justice and Environment Select Committee inquiry into the 2019 elections that the process by which councils can establish Māori wards (territorial authorities) and Māori constituencies (regional councils) be aligned with the same process by which councils can establish general wards and constituencies, i.e. that it is rolled into the overall representation process and not be subject to a separate poll. SOLGM will be briefing the incoming Minister of Local Government following the 2020 general elections on this matter and will be looking for legislative change.

The LGC publishes a table showing the current Māori electoral population (MEP) and general electoral population (GEP) along with the number of members who would be elected from Māori wards or constituencies in each local authority (based on their current size); the data for Selwyn based on the 2018 Census is as follows:

District	Māori Electoral Population	General Electoral Population	Total Population	Total Members	Māori Ward Members	Māori Ward Members (Rounded)
Selwyn District	2,229	58,332	60,561	11	0.40	0

i. The Local Electoral Act 2001

The statutory provisions for changing the electoral system are set out in *sections 19Z to 19ZH, Local Electoral Act 2001 (copy attached)*.

ii. Local Government Commission Guidelines

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, Local Electoral Act 2001.⁴

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.

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 – s19Z(1), poll demand – 19ZC(4)). 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.

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 (s19ZA).

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 (s19ZC(4)). 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.

The local authority needs to be fully aware of the relevant provisions and possible implications of establishing Māori wards/constituencies for any representation review.

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

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).

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, Local Electoral Act 2001). In such cases the requirements of Part 1A, Local Electoral Act 2001 are subject to the provisions of Schedule 1A.

Clauses 1 and 3, 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.

Additional details on the Processes for these steps are published by the LGC in their Guidelines at:

www.lgc.govt.nz/assets/Representation-Reviews/Representation-Review-Guidelines-2020.pdf

3. OPTIONS

The Council has the following choices:

- a) Take no action
- b) Council resolution and poll for the 2022 elections
- c) Council resolution and poll for the 2025 elections
- d) Resolve that no Maori Ward be established

a) Option One – Take no action

If there is no change there is no requirement to notify the public of the right of 5% of the electors to demand a poll.

b) Option Two – Council resolution and poll for the 2022 elections

If Council resolves to introduce Māori Representation this must be done by 23 November 2020 (to be in time for the 2022 election).

If a resolution has been made by the Council, the Council must give public notice by 30 November 2020 of the right for electors to demand a poll be held on Māori Representation.

If a demand for a poll is received by 21 February 2021, a poll must be held by 21 May 2021. (Section 19ZC of LEA)

The Council may also resolve to undertake a poll on Māori Representation by 21 February 2021.

c) Option Three - Council resolution and poll for the 2025 elections

The Council has the option of resolving after the 23 November 2020 to establish a Māori ward and to run a poll in conjunction with the 2022 elections.

d) Option Three – Resolve that no Māori Ward be established

If there is no change there is no requirement to notify the public of the right of 5% of the electors to demand a poll.



Stephen Hill
GROUP MANAGER COMMUNICATION AND CUSTOMERS |
DEPUTY ELECTORAL OFFICER

- (b) a copy must be kept at the office of the territorial authority or regional council, and must be available for inspection without fee by any person during normal office hours.

Compare: 1974 No 66 s 101M

Section 19Y: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19Y(1): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Section 19Y(2)(a)(iv): amended, on 29 June 2013, by section 14 of the Local Electoral Amendment Act 2013 (2013 No 40).

Section 19Y(3): amended, on 8 August 2014, by section 76 of the Local Government Act 2002 Amendment Act 2014 (2014 No 55).

Māori wards and Māori constituencies

Heading: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19Z Territorial authority or regional council may resolve to establish Māori wards or Māori constituencies

- (1) Any territorial authority may resolve that the district be divided into 1 or more Māori wards for electoral purposes.
- (2) Any regional council may resolve that the region be divided into 1 or more Māori constituencies for electoral purposes.
- (3) A resolution under this section,—
 - (a) if made after a triennial general election but no later than 23 November of the year that is 2 years before the next triennial general election, takes effect, subject to paragraph (c), for the purposes of the next triennial general election of the territorial authority or regional council; and
 - (b) in any other case, takes effect, subject to paragraph (c), for the purposes of the next but one triennial general election; and
 - (c) in either case, takes effect for 2 triennial general elections of the territorial authority or regional council, and any associated election, and continues in effect after that until either—
 - (i) a further resolution under this section takes effect; or
 - (ii) a poll of electors of the territorial authority or regional council held under section 19ZF takes effect.
- (4) This section is subject to section 19ZE and to clauses 2(5) and 4(4) of Schedule 1A.
- (5) In this section and in sections 19ZB to 19ZG, **associated election**, in relation to any 2 successive triennial general elections of a territorial authority or regional council, means—

- (a) any election to fill an extraordinary vacancy in the membership of the body concerned that is held—
 - (i) between those elections; or
 - (ii) after the second of those elections but before the subsequent triennial general election:
- (b) an election of the members of the body concerned under section 258I or 258M of the Local Government Act 2002 that is held—
 - (i) between those elections; or
 - (ii) after the second of those elections but before the subsequent triennial general election.

Section 19Z: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19Z(4): amended, on 28 June 2006, by section 4 of the Local Electoral Amendment Act 2006 (2006 No 25).

Section 19Z(5)(b): amended, on 5 December 2012, by section 43 of the Local Government Act 2002 Amendment Act 2012 (2012 No 93).

19ZA Public notice of right to demand poll

- (1) A territorial authority or regional council that passes a resolution under section 19Z must give public notice, not later than the required date, of the right to demand, under section 19ZB, a poll on the question whether,—
 - (a) in the case of a territorial authority, the district should be divided into 1 or more Māori wards; or
 - (b) in the case of a regional council, the region should be divided into 1 or more Māori constituencies.
- (2) The public notice under subsection (1) must include—
 - (a) notice of the resolution under section 19Z; and
 - (b) a statement that a poll is required to countermand that resolution.
- (3) In subsection (1), **required date** means,—
 - (a) in the case of a resolution under section 19Z that is made after a triennial general election but not later than 23 November of the year that is 2 years before the next triennial general election, 30 November in that year;
 - (b) in the case of a resolution under section 19Z that is made at some other time, the date that is 7 days after the date of the resolution.
- (4) This section is subject to section 19ZE.

Section 19ZA: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19ZB Electors may demand poll

- (1) A specified number of electors of a territorial authority or regional council may, at any time, demand that a poll be held on the question whether,—
 - (a) in the case of a territorial authority, the district should be divided into 1 or more Māori wards; or
 - (b) in the case of a regional council, the region should be divided into 1 or more Māori constituencies.
- (2) This section is subject to section 19ZE.
- (3) In this section and sections 19ZC and 19ZD,—

demand means a demand referred to in subsection (1)

specified number of electors, in relation to a territorial authority or regional council, means a number of electors equal to or greater than 5% of the number of electors enrolled as eligible to vote at the previous triennial general election of the territorial authority or regional council.

Section 19ZB: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19ZC Requirements for valid demand

- (1) A demand must be made by notice in writing—
 - (a) signed by a specified number of electors; and
 - (b) delivered to the principal office of the territorial authority or regional council.
- (2) An elector may sign a demand and be treated as one of the specified number of electors only if,—
 - (a) in the case of a territorial authority, the name of the elector appears on the electoral roll of the territorial authority; or
 - (b) in the case of a regional council, the name of the elector appears on the electoral roll of a territorial authority and the elector's address as shown on that roll is within the region; or
 - (c) in a case where the name of an elector does not appear on a roll in accordance with paragraph (a) or paragraph (b),—
 - (i) the name of the elector is included on the most recently published electoral roll for any electoral district under the Electoral Act 1993 or is currently the subject of a direction by the Electoral Commission under section 115 of that Act (which relates to unpublished names); and
 - (ii) the address for which the elector is registered as a parliamentary elector is within the local government area of the territorial authority or regional council; or
 - (d) the address given by the elector who signed the demand—

- (i) is confirmed by the Electoral Commission as the address at which the elector is registered as a parliamentary elector; and
 - (ii) is, if the demand was given to a territorial authority, within the district of the territorial authority; or
 - (iii) is, if the demand was delivered to a regional council, within the region of the regional council; or
- (e) the elector has enrolled, or has been nominated, as a ratepayer elector and is qualified to vote as a ratepayer elector in elections of the territorial authority or, as the case may require, the regional council.
- (3) Every elector who signs a demand must state, against his or her signature,—
 - (a) the elector's name; and
 - (b) the address for which the person is qualified as an elector of the territorial authority or regional council.
- (4) If a valid demand is received after 21 February in the year before the next triennial general election, the poll required by the demand—
 - (a) must be held after 21 May in that year; and
 - (b) has effect in accordance with section 19ZG(4) (which provides that the poll has effect for the purposes of the next but one triennial general election and the subsequent triennial general election).
- (5) The chief executive of the territorial authority or regional council must, as soon as practicable, give notice to the electoral officer of every valid demand for a poll made in accordance with section 19ZB and this section.
- (6) This section is subject to section 19ZE.

Section 19ZC: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19ZC(2)(c)(i): amended, on 1 July 2012, by section 58(4) of the Electoral (Administration) Amendment Act 2011 (2011 No 57).

Section 19ZC(2)(d)(i): amended, on 21 March 2017, by section 114 of the Electoral Amendment Act 2017 (2017 No 9).

Section 19ZC(4): amended, on 26 March 2015, by section 4 of the Local Electoral Amendment Act 2015 (2015 No 19).

19ZD Territorial authority or regional council may resolve to hold poll

- (1) A territorial authority or regional council may, at any time, resolve that a poll be held on the question whether,—
 - (a) in the case of a territorial authority, the district should be divided into 1 or more Māori wards; or
 - (b) in the case of a regional council, the region should be divided into 1 or more Māori constituencies.
- (2) A resolution under subsection (1) may, but need not, specify the date on which the poll is to be held.

- (3) The date specified for the holding of a poll must not be a date that would require deferral of the poll under section 138A.
- (4) The chief executive of the territorial authority or regional council must give notice to the electoral officer under subsection (1),—
 - (a) if no date for the holding of the poll is specified in the resolution, as soon as is practicable;
 - (b) if a date for the holding of the poll is specified in the resolution, at an appropriate time that will enable the poll to be conducted in accordance with section 19ZF(3).
- (5) This section is subject to section 19ZE.

Section 19ZD: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19ZE Limitation on division into Māori wards or Māori constituencies

Sections 19Z to 19ZD do not apply, in relation to a territorial authority or regional council, if—

- (a) a poll on the proposal described in section 19ZB or section 19ZD held under section 19ZF took effect at the previous triennial general election of the territorial authority or regional council or takes effect at the next triennial general election of the territorial authority or regional council; or
- (b) another enactment requires that the district be divided into 1 or more Māori wards or the region be divided into 1 or more Māori constituencies.

Section 19ZE: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

19ZF Poll of electors

- (1) If the electoral officer for a territorial authority or regional council receives notice under section 19ZC(5) or section 19ZD(4), the electoral officer must, as soon as practicable after receiving that notice, give public notice of the poll under section 52.
- (2) Despite subsection (1), if an electoral officer for a territorial authority or regional council receives 1 or more notices under both section 19ZC(5) and section 19ZD(4), or more than 1 notice under either section, in any period between 2 triennial general elections, the polls required to be taken under each notice may, to the extent that those polls would, if combined, take effect at the same general election, and if it is practicable to combine those polls, be combined.
- (3) A poll held under this section must be held not later than 89 days after the date on which—
 - (a) the notice referred to in subsection (1) is received; or

- (b) the last notice referred to in subsection (2) is received.
- (4) Subsection (3) is subject to subsection (2), section 19ZC(4), and section 138A.
- (5) Every poll under this section that is held in conjunction with a triennial general election or held after that date but not later than 21 May in the year immediately before the year in which the next triennial general election is to be held determines whether, for the next 2 triennial general elections for the territorial authority or regional council and any associated election,—
 - (a) the district of the territorial authority is to be divided into 1 or more Māori wards; or
 - (b) the region of the regional council is to be divided into 1 or more Māori constituencies.
- (6) Every poll under this section that is held at some other time determines whether, for the next but one triennial general election and the following triennial general election for the territorial authority or regional council and any associated election,—
 - (a) the district of the territorial authority is to be divided into 1 or more Māori wards; or
 - (b) the region of the regional council is to be divided into 1 or more Māori constituencies.
- (7) Subsections (5) and (6) are subject to clauses 2(5) and 4(4) of Schedule 1A.

Section 19ZF: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19ZF(3): amended, on 26 March 2015, by section 5 of the Local Electoral Amendment Act 2015 (2015 No 19).

19ZG Effect of poll

- (1) Subsection (2) applies to a poll held in conjunction with a triennial general election or held after that election but not later than 21 May in the year immediately before the year in which the next triennial general election is to be held.
- (2) If the result of a poll to which this subsection applies requires the division of the district of a territorial authority into 1 or more Māori wards, or the division of the region of a regional council into 1 or more Māori constituencies, that district or region must be divided into those wards or constituencies, as the case requires,—
 - (a) in the case of a territorial authority, for the next 2 triennial general elections of the territorial authority, and any associated election; and
 - (b) in the case of a regional council, for the next 2 triennial general elections of the regional council, and any associated election; and
 - (c) for all subsequent triennial general elections, elections to fill extraordinary vacancies, and elections called under section 258I or 258M of the Local Government Act 2002, until a further resolution under section 19Z

takes effect or a further poll held under section 19ZF takes effect, whichever occurs first.

- (3) Subsection (4) applies to a poll held at some other time.
- (4) If the result of a poll to which this subsection applies requires the division of a territorial authority into 1 or more Māori wards, or the division of the region of a regional council into 1 or more Māori constituencies, that district or region must be divided into those wards or constituencies, as the case requires,—
 - (a) in the case of a territorial authority, for the next but one triennial general election and the following triennial general election of the territorial authority, and any associated election; and
 - (b) in the case of a regional council, for the next but one triennial general election and the following triennial general election of the regional council, and any associated election; and
 - (c) for all subsequent triennial general elections, elections to fill extraordinary vacancies, and elections called under section 258I or 258M of the Local Government Act 2002, until a further resolution under section 19Z takes effect or a further poll held under section 19ZF takes effect, whichever occurs first.
- (5) This section is subject to clauses 2(5) and 4(4) of Schedule 1A.

Section 19ZG: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).

Section 19ZG(2)(c): amended, on 5 December 2012, by section 43 of the Local Government Act 2002 Amendment Act 2012 (2012 No 93).

Section 19ZG(4)(c): amended, on 5 December 2012, by section 43 of the Local Government Act 2002 Amendment Act 2012 (2012 No 93).

19ZH Basis of election of territorial authority and regional council

If, for the purpose of a triennial general election,—

- (a) a district of a territorial authority is required to be divided into 1 or more Māori wards; or
- (b) a region of a regional council is required to be divided into 1 or more Māori constituencies,—

the provisions of this Part (other than those of sections 19B, 19G, and 19J, and those of this section) are subject to the provisions of Schedule 1A.

Section 19ZH: inserted, on 25 December 2002, by section 6 of the Local Electoral Amendment Act 2002 (2002 No 85).