

Updated 10 March 2021

16. Representation and reorganisation

This section explains what is involved with reorganisation proposals, as well as for reviews of representation – which councils are required to carry out at least once every six years.

16.1 Representation reviews

16.1.1 Representation arrangements

- a. Representation arrangements relate to the way that councillors and local board members are elected.
- b. The council is required to conduct representation reviews at least once every six years [1]. The council resolved its initial representation proposal on 18 October 2018 [2]
- c. Auckland Council's Governing Body resolved at its 27 February 2020 meeting that no further action be taken to review representation arrangements for the 2022 elections [3]. The next representation review will be prior to the 2025 local elections. Any review must be conducted in accordance with the timeframes set out in legislation [4].
- d. Representation arrangements that must be reviewed include [5]:
 - whether councillors are elected on a ward (i.e. division of the district) basis, or for the district as a whole
 - if applicable, the name and boundaries of each ward and the number of councillors to be elected in each ward
 - whether local board members are elected on a subdivision (i.e. division of the local board area) basis or for the local board area as a whole, and the number of members in each local board (between five and 12 [6])
 - if applicable, the name and boundaries of local board subdivisions, and the number of members to be elected in each subdivision
 - the names of local boards.
- e. While other councils can review the number of councillors, the number for Auckland Council is fixed in legislation at 20 [7].
- f. Councils also have a power to consider dividing the district into one or more Māori

wards for electoral purposes [8].

- g. Auckland Council's boundaries and the boundaries and number of local boards can be reviewed only through a local government reorganisation process.

16.1.2 Election at large or by wards and subdivisions

- a. It is possible for some members to be elected on an at-large basis and others on a ward or subdivision basis.
- b. Election 'at-large' means that members are elected from the whole area (whether the whole district or whole local board area) and not on a ward or subdivision basis. This can encourage the member to act in the interests of the area as a whole.
- c. Election on a ward basis (or subdivision basis for local boards) ensures there is an even spread of members, preventing a majority of members being elected from the same area.

16.1.3 Requirements for effective and fair representation for wards and subdivisions

a. Effective representation

- When conducting representation reviews (except in relation to the naming of local boards), the council must ensure that the manner in which councillors and local board members are elected will provide "effective representation of communities of interest within the district" [1].
- The Local Government Commission Representation Review Guidelines provide further detail [2].

b. Fair representation

- When looking at representation arrangements, the council must ensure that electors of any wards or local board subdivisions receive fair representation [3].
- This relates to the population of each ward and subdivision compared to the number of elected representatives for each ward and subdivision. The ratio should be no more than 10% greater or smaller than the average [4].
- The council may propose a scheme that does not comply with the ratio required for fair representation in certain circumstances, including where [5]:
 - i) non-compliance is needed to ensure effective representation of communities of interest within island or isolated communities
 - ii) compliance would limit effective representation of communities of interest within the district [6], for example the rural wards of Rodney and Franklin.

16.1.4 Māori wards

- a. Auckland Council may, by resolution, divide the district into one or more Māori wards. If the Council decides to do so, it must give public notice of the right to demand a poll

in which electors can vote on whether the district should be divided into Māori wards [1].

- b. The council may decide to hold a poll [2] or it may be demanded by a specified number of electors [3]. If a valid demand is received, there are set time frames for when the poll must be held and when it would take effect [4].
- c. There are some limitations, for example if a poll was already held at the last triennial election, or will be held at the next one, or if another enactment requires the district to be divided into Māori wards [5].
- d. If the result of a poll requires the division of the district into one or more Māori wards, there are set times when this must take effect [6].
- e. If the district is to be divided into one or more Māori wards for the purposes of an election, the council must determine [7]:
 - whether all members are to be separately elected from Māori wards and general wards, or whether some members are to be elected 'at large' with some separately elected on a ward basis; and, if so, how many of each
 - the number of members to be elected from Māori wards, and the number of members to be elected from general wards, determined in accordance with the formula set out in the legislation [8]
 - the names and boundaries of each Māori ward
 - the number of members to be elected from each Māori ward and the number of members to be elected from each general ward.
- f. Decisions in relation to the division of the district into one or more Māori wards must comply with the same requirements as when deciding on representation arrangements for general wards. The ratio of members to the Māori electoral population in each Māori ward must produce a variance of no more than plus or minus 10% [9].
- g. The Council must also have regard to the boundaries of any existing Māori electoral district, communities of interest and tribal affiliations [10].

16.2 Reorganisation

16.2.1 The Process for reorganization proposals

- a. A local government reorganisation proposal may deal with any or all of the following matters [1]:
 - combining districts or regions

- creating a new district or region, including a new local authority for it
 - abolishing a district or region, including the local authority
 - altering the boundaries of any district or region
 - transferring a responsibility, duty, power conferred by an enactment or a discretionary function from one local authority to another
 - a proposal that a territorial authority assume the responsibilities, duties and powers of a regional council
 - the performance and exercise by a local authority of the responsibilities, duties, and powers of a regional council in respect of a region and a territorial authority in respect of a district that constitutes a part only of that region
 - establishing one or more joint committees and the delegation of responsibilities, duties, and powers to those committees
 - establishing, abolishing or altering the boundaries of a local board area
 - combining two or more local board areas.
- b. Local government reorganisation applications are made to the Local Government Commission. There is a prescribed process for how the Commission must consider applications [2].
- c. In the application stage, the commission first makes a decision whether to assess the application, before considering the affected area and whether there is community support for reorganisation. Alternative applications are called for and considered alongside both the original application and the existing arrangements before the commission determines and notifies its preferred option.
- d. If the current arrangements are the preferred option, the process for that application ends.
- e. If the preferred option is something other than the current arrangements, the application progresses to the proposal stage. At this stage, the commission prepares and consults on a draft proposal before deciding whether or not to issue a final proposal; it may also issue a new draft proposal (which is then consulted on again). Final proposals are publicly notified, including notice to affected electors that they have the right by petition to demand a poll, in which electors will vote on the final proposal.
- f. If a poll is held and more than 50% of valid votes oppose the final proposal, it will not proceed. If more than 50% of valid votes support the proposal (or if no poll is called for) the final proposal will be confirmed by way of Order in Council; a transition agency is set up, and a reorganisation scheme prepared.
- g. Another option for reorganisation applications available to local authorities is a 'local authority-led reorganisation application' [3]. This empowers one

or more local authorities to develop and publicly consult on a reorganisation plan, and submit the plan to the Commission for approval.

- h. Further information on the process can be found on the Local Government Commission's website [4].

16.2.2 Current applications for reorganization in Auckland

- a. The Local Government Commission has received two applications for reorganisation in the Auckland Council district since the Auckland Council was established in 2010.

- **Application from the Northern Action Group for a unitary authority for North Rodney** – On 1 November 2013, the commission received an application for a North Rodney Unitary Council from the Northern Action Group. The commission agreed to assess the application in August 2015. On 14 April 2016, the commission determined that the affected area is the Auckland Council area and that there is demonstrable community support in the area for reorganisation. The commission therefore called for alternative applications for local government reorganisation in the Auckland Council area to be submitted by 24 June 2016. The Northern Action Group submitted a supplementary proposal in June 2016.
 - **Application from Our Waiheke for a unitary authority for Waiheke Island** – The commission received an application for a unitary authority for Waiheke Island from Our Waiheke in December 2015. In March 2016, the commission agreed to assess the application, and then subsequently agreed, on 29 May 2016, to consider the application as an alternative application in the Auckland Council reorganisation process initiated by the North Rodney reorganisation application.
- b. The Commission ran a community engagement programme from September to December 2016 to provide the Auckland community, particularly people from Rodney and Waiheke Island, with an opportunity to provide feedback on local government arrangements and performance in Auckland. The Commission then released a report authored by Morrison Low to assist the Commission in identifying the “reasonably practicable options” for local government in Auckland as part of the current reorganisation process.
 - c. On 10 November 2017, the Commission determined its preferred option for local government in the Auckland Council affected area was the existing local government arrangements in Auckland – the status quo. Northern Action Group Incorporated (NAG) and Our Waiheke, whose proposals for a North Rodney Unitary Authority and a Waiheke Unitary Authority respectively were not considered to meet the statutory requirements for reasonably practicable options for local government in Auckland, appealed the Commission’s decision to the High Court.
 - d. In June 2018, the Commission received Auckland Council’s initial response to its report *Enhancing local government for Aucklanders: Recommendations to Auckland Council*. In November 2018, the Commission received a further update from Auckland Council on its responses to its report and recommendations.
 - e. On 30 April 2020, the High Court released its judgement on the Northern

Action Group's appeal against the Commission's decision not to establish a North Rodney unitary authority. The High Court found in favour of the Commission on each point of appeal raised.

- f. For more information about the commission's consideration of the local government arrangements in the Auckland Council area, see the Local Government Commission's website [1].

16.3 Footnotes

16.1.1 Representation arrangements

[1] Local Electoral Act 2001, section 19H

[2] <https://www.aucklandcouncil.govt.nz/have-your-say/topics-you-can-have-your-say-on/consultation-on-electoral-boundaries-and-representation/Pages/default.aspx>

[3] Resolution number GB/2020/11 clause g

[4] Local Electoral Act 2001, sections 19K to 19S

[5] Local Electoral Act 2001, section 19H

[6] Local Electoral Act 2001, section 19EA

[7] Local Government (Auckland Council) Act 2009, section 8

[8] Local Electoral Act 2001, section 19Z

16.1.3 Requirements for effective and fair representation

[1] Local Electoral Act 2001, section 19T

[2] <http://www.lgc.govt.nz/assets/Uploads/Representation-Review-Guidelines-2020-v2.pdf>

[3] Local Electoral Act 2001, section 19V

[4] The population of each ward or subdivision divided by the number of members to be elected by that ward or subdivision must produce a figure no more than 10% greater or smaller than the total population of the district or local board area divided by the total number of elected members (other than those members elected 'at large', and the mayor).

[5] Local Electoral Act 2001, section 19V(3)

[6] The Local Government Commission, when deciding on the initial ward boundaries for Auckland Council governing body members, sought to achieve an appropriate balance between fair representation and recognising communities of interest. It stated in its decision: "We received a number of submissions seeking more equal representation ratios for electing councillors across Auckland. We carefully considered options to achieve this in terms of closer compliance with the '+/-10% fair representation rule' while still ensuring effective representation of communities of interest."

16.1.4 Māori Wards

[1] Local Electoral Act 2001, section 19Z

[2] Local Electoral Act 2001, section 19ZD

[3] Local Electoral Act 2001, section 19ZB

[4] Local Electoral Act 2001, section 19ZC

[5] Local Electoral Act 2001, section 19ZE

[6] Local Electoral Act 2001, section 19ZG

[7] Local Electoral Act 2001, schedule 1A, clause 1

[8] Local Electoral Act 2001, schedule 1A, clause 2

[9] Local Electoral Act 2001, schedule 1A, clause 6(a).

[10] Local Electoral Act 2001, schedule 1A, clause 6(b)

16.2.1 The Process for reorganization proposals

[1] Local Government Act 2002, section 24

[2] Local Government Act 2002, sections 24A to 27B and schedule 3.

[3] Local Government Act 2002, Schedule 3 Part 2 subpart 1B

[4] [Local government reorganisation | Local Government Commission \(lgc.govt.nz\)](#)

16.2.2 Current applications for reorganization in Auckland

[1] <http://www.lgc.govt.nz/local-government-reorganisation/previous-applications/view/auckland-reorganisation-application?step=main>

Key Documents

Appointment and Remuneration Policy for Boards Members of Council Organisation

Civil Defence Emergency Management Act 2002

Code of Conduct

Code of conduct for elected members

Interpretation Act 1999

Ngāti Whātua Orākei Claims Settlement Act 2012

Ngāti Whātua o Kaipara Claims Settlement Act 2013

Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008

Local Boards Standing Orders

Local Electoral Act 2001

Local Government Act 2002

Local Government (Rating) Act 2002

Local Government (Auckland Council) Act 2009

Local Government Official Information and Meetings Act 1987

Public Audit Act 2001

Standing Orders