



LOCAL GOVERNMENT COMMISSION
MANA KĀWANATANGA Ā ROHE

Determination

of representation arrangements to apply for
the election of the Northland Regional Council
to be held on 12 October 2013

Background

1. All regional councils are required under section 19I of the Local Electoral Act 2001 (the Act) to review their representation arrangements at least every six years. These reviews are to determine the number of councillors to be elected and the number and boundaries of the constituencies from which they are elected, in order that these arrangements provide fair and effective representation for individuals and communities.
2. The Northland Regional Council (the Council) last reviewed its representation arrangements prior to the 2007 local authority elections. Accordingly it was required to undertake a review prior to the next elections in October 2013.
3. The representation arrangements that applied for the 2007 and subsequent 2010 elections were for eight councillors elected as follows.

Constituencies	Population*	Number of councillors per constituency	Population per councillor	Deviation from region average population per councillor	% deviation from region average population per councillor
Far North	58,500	3	19,500	-281	-1.42
Whangarei	80,600	4	20,150	+369	+1.86
Kaipara	19,150	1	19,150	-631	-3.19
Total	158,250	8	19,781		

* These are updated 2011 estimates

4. The Council commenced its review by conducting a series of workshops in February 2012 on representation issues and options. A number of possible representation options were identified comprising a range in the number of councillors and the number of constituencies, as well as the status quo arrangements.
5. At a meeting on 21 August 2012 the Council, under section 19I of the Act, resolved its initial representation proposal as follows.

Constituencies	Population*	Number of councillors per constituency	Population per councillor	Deviation from region average population per councillor	% deviation from region average population per councillor
Te Hiku	17,675	1	17,675	+97	+0.55
Hokianga-Kaikohē	15,837	1	15,837	-1,741	-9.90
Coastal North	15,867	1	15,867	-1,711	-9.73
Coastal Central	18,581	1	18,581	+1,003	+5.71
Hikurangi-Bream Head	18,388	1	18,388	+810	+4.61
Whangarei Urban	38,440	2	19,220	+1,642	+9.34
Coastal South	18,089	1	18,089	+511	+2.91
Kaipara	16,338	1	16,338	-1,240	-7.05
Total	158,200	9	17,578		

* The Council calculated these based on 2011 population estimates and they do not exactly sum to the total

6. The Council notified its initial proposal on 1, 4 and 5 September 2012 and in so doing identified the following reasons for the proposed changes to representation arrangements in Northland Region:
 - to better reflect regional communities of interest
 - to provide an integrated management focus
 - to provide an opportunity to strengthen relationships between tangata whenua and increased involvement of Māori in regional council decision-making
 - in determining the number of councillors to be elected by the electors of each constituency, the Council satisfied section 19V of the Local Electoral Act 2001 which provides for fair representation.

7. The Council received 38 submissions, 22 in support and 16 in opposition to the proposal, by the deadline of 1 October 2012.

8. At a meeting on 30 October 2012, after considering the submissions received, the Council resolved to amend its initial proposal as follows:
 - keep the Bay of Islands community of interest and catchment in the same constituency by combining the proposed Coastal North and Coastal Central Constituencies into one constituency represented by two councillors
 - keep the Tutukaka Coast community of interest in the same constituency by extending the boundary north to include Matapouri and Sandy Bay (renamed Hikurangi-Coastal Central)
 - recognise Waipoua Forest as a natural boundary between the Kaipara and Hokianga-Kaikohē Constituencies by moving the Kaipara Constituency boundary up to match the Far North boundary which also enables Kaihu to be affiliated with its community of interest
 - expand the boundary east of Hikurangi township to include as large an area in Hikurangi-Coastal Central Constituency in compliance with the +/-10% rule
 - constituency boundaries proposed to match territorial authority boundaries, as at present, where practicable without eroding regional communities of interest

and, as a result, further minor refinements were made between the initial proposal and the final proposal.

9. The Council's final representation was:

Constituencies	Population*	Number of councillors per constituency	Population per councillor	Deviation from region average population per councillor	% deviation from region average population per councillor
Te Hiku	17,650	1	17,650	+72	+0.41
Hokianga-Kaikohē	15,350	1	15,350	-2,228	-12.67
Coastal North	32,200	2	16,100	-1,478	-8.41
Hikurangi-Coastal Central	18,650	1	18,650	+1,072	+6.10
Whangarei Urban	38,900	2	19,450	+1,872	+10.65
Coastal South	19,200	1	19,200	+1,622	+9.23
Kaipara	16,200	1	16,200	-1,378	-7.84
Total	158,200	9	17,578		

* The Council calculated these based on 2011 population estimates and they do not exactly sum to the total

10. The Council notified its final proposal on 10, 13 and 14 September 2012 and sought any appeals or objections by 10 December 2012. Six appeals/objections were received.
11. As the population to member ratios of the Hokianga-Kaikohē and Whangarei Urban Constituencies did not comply with the requirements of section 19V(2) of the Act, the Council would, in any event, have been required by section 19V(4) of the Act to refer its proposal to the Commission for determination.

Hearing

12. The Commission met with the Council and appellants/objectors at a hearing held in the Northland Regional Council chambers on 5 February 2013. The appellants who appeared at the hearing were Margaret Hicks, Ben Smith and the Whangarei District Council represented by Councillor Warwick Syers and Chief Executive Mark Simpson. The Northland Regional Council was represented by Chair Craig Brown and Chief Executive Malcolm Nicholson.

Matters raised in appeals/objections and at the hearing

13. Council Chair Craig Brown began by saying the Council believed its proposal would provide better representation for the region than current arrangements based purely on territorial authority boundaries which had been in place since 1992. He said the Council had felt for some time that there was something amiss with these representation arrangements with councillors being too removed from local communities and the review provided the opportunity to consider options to bring the Council and communities closer together. He said the proposal was politically led on this basis but it was not for personal political gain as he, for example, stood to be disadvantaged by the Council's proposal.

14. Council Chief Executive Malcolm Nicholson gave a presentation on the Council's review process. He described current arrangements as effectively being for elections at large across the three territorial authority districts and these involved large sparsely populated areas. The Council had conducted a series of workshops and undertaken a robust consultation process for the review. The workshops included identification of communities of interest in Northland Region being: urban (Whangarei the largest commercial hub), coastal recreation/lifestyle, rural farming, Māori/DOC/forestry. The Council had also identified the need for greater recognition of the influence of catchments on communities of interest. It concluded that representation could be improved and identified four preliminary options and from these it selected an option of eight constituencies electing a total of nine councillors with all constituencies complying with the '+/-10% rule'. As a result of submissions received, the Council had made a number of amendments to its initial proposal, including combining two constituencies to elect two members, and consequently two constituencies marginally did not comply with the '+/-10% rule'.
15. Margaret Hicks read a prepared statement in support of her appeal against the Council's proposal. This included her belief that the Council had not received a clear mandate to implement the proposed changes being based on just 38 submissions received and 22 in favour from a population of 158,000 people. She questioned the amount of publicity the Council had given to the process and its proposal and believed many people were unaware of these proposals. Ms Hicks also questioned the Council's argument that the proposal would enable councillors to better engage with their constituents on local issues. She said she believed it was not appropriate at this time to break up the Kaipara Constituency given the financial issues that the Kaipara District Council was presently having and its boundaries should be left intact. Given the possibility of wider local government reorganisation in Northland Region, Ms Hicks questioned the point of such changes in representation arrangements and felt it was an attempt to "muddy the waters" in relation to reorganisation. She said it was more important to change the behaviour of Council and councillors in relation to local communities.
16. Councillor Syers and Chief Executive Mark Simpson appeared on behalf of the Whangarei District Council in support of its appeal against the Council's proposal. Mr Simpson said current representation arrangements complied with the '+/-10% rule' and therefore his Council questioned why changes were being proposed. The Council did not consider the proposed constituencies were sustainable based on demographic trends and suggested five members should be allocated to Whangarei given population growth in the district with representation maintained for the other two districts. The proposal was an unnecessary precedent based on land use activities rather than social interaction and communities of interest which would confuse residents and electors. The Council considered that the proposal also did not meet the requirements or intent of the Act or the Commission's guidelines.
17. Ben Smith appeared before the Commission in support of his appeal. Mr Smith sought a boundary change between the proposed Coastal North and Hikurangi-Coastal Central Constituencies so that virtually all Hikurangi Swamp catchment would be within one constituency along with four other major catchments. Given the similarities of issues relating to catchment management, he said this would enable a more consistent approach to catchment issues including flood protection and also could assist levying of targeted rates in this area in future. Mr Smith said a boundary change could also encourage formation of a catchment community action group for Hikurangi Swamp to respond to issues such as increasing demand for water.

Procedural issues

18. One of the appellants, Margaret Hicks, raised some procedural issues about the Council's decision-making process including the publicity provided and the mandate for the Council to make the changes it was proposing. The Commission's *'Guidelines to assist local authorities in undertaking representation reviews'* refer to a High Court decision that found that the Commission's role is not merely supervisory of a local authority's representation arrangements decision. The Guidelines state the Commission is "required to form its own view on the matters which are within the scope of the review". The Commission must therefore form its own view on the matter of fair and effective representation for individuals and communities within Northland Region and therefore issues relating to the Council's decision-making process, and the mandate for decisions, are not matters that the Commission needs to address.

Requirements for determination

19. Statutory provisions relating to the determination of appeals and objections on regional council representation proposals are contained in sections 19R and 19I of the Act.

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).*

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 section (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 first determination.*
- (3) *This section must be read in conjunction with section 19ZH and Schedule 1A.*
20. Section 19V(3)(b) of the Act provides that if a regional council considers that effective representation so requires, constituencies may be defined and membership distributed between them in a way that does not comply with the +/-10% requirement of section 19V(2). Where a regional council has made such a decision, section 19V goes on to provide as follows:
- (4) *A regional council that decides under subsection (3)(b) 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 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 regional council; or*
- (b) *to alter that decision.*
21. Other statutory provisions the Commission is required to consider include those set out in sections 19D, 19E, 19U and 19V and these are addressed below.

Consideration by the Commission

22. The steps in the process for achieving required fair and effective representation are not statutorily prescribed. As reflected in its *'Guidelines to assist local authorities in undertaking representation reviews'*, the Commission believes that the following steps in determining representation arrangements will achieve a robust outcome that is in accordance with the statutory criteria:
- a) identify the region's communities of interest
 - b) determine the best means of providing effective representation of the identified communities of interest
 - c) determine fair representation of electors for the region.

Communities of interest

23. The Guidelines identify three dimensions for recognising communities of interest:
- perceptual: a sense of belonging to an area or locality
 - functional: the ability to meet the community's requirements for services
 - political: the ability to represent the interests and reconcile conflicts of the community.
24. The Commission considers that constituencies should be based on distinct and recognisable communities of interest reflecting these dimensions.

Effective representation of communities of interest

25. Section 19U of the Act requires the Commission to ensure that:
 - the election of members of the council will provide effective representation of communities of interest in the region
 - constituency boundaries coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes
 - so far as is practicable, constituency boundaries coincide with the boundaries of one or more territorial authority districts or the boundaries of wards.
26. While not a prescribed statutory requirement, the Guidelines also suggest that local authorities consider the total number of members, or a range in the number of members, necessary to provide effective representation for the region as a whole. In other words, the final number of members should not be arrived at solely as the product of the total number of members per constituency.
27. Section 19D of the Act provides that a regional council shall consist of between 6 and 14 members. The Council comprised 12 members when constituted in 1989 and eight members since the 1992 elections. We note that the Council did consider a range of options in relation to the number of members as part of its consideration of representation options and these appear to be within an appropriate range for a region of this size.
28. The Commission's Guidelines note that what constitutes effective representation of communities of interest will be specific to each local authority but that the following factors should be considered to the extent possible:
 - avoiding arrangements that may create barriers to participation, such as at elections, for example by not recognising residents' familiarity and identity with an area
 - not splitting recognised communities of interest between electoral subdivisions
 - not grouping together two or more communities of interest that share few commonalities of interest
 - accessibility, size and configuration of an area including access to elected members and vice versa.
29. The Guidelines state that decisions relating to the representation of communities of interest (the political dimension) will need to take account of the extent that distinct geographical communities of interest can be identified, i.e. a physical boundary is able to be defined below the region level for the community of interest. Territorial authority boundaries may provide this in some cases in line with section 19U(c) of the Act, and this has been the case in Northland Region since 1992.
30. The Council began its current review by identifying the following regional communities of interest within Northland:
 - largest urban, commercial hub of region (Whangarei)
 - coastal recreation/lifestyle:
 - lower east coast (Mangawhai to Whananaki)
 - middle east coast (Russell/Paihia/Kerikeri)

- upper east coast (Takou to Doubtless Bay)
 - rural farming:
 - central/south (Kaipara, around Whangarei)
 - central/north (Far North/Kaitaia/Kaikohe)
 - Māori/DOC/forestry lands (west/top Far North).
31. The Council based its initial proposal on these identified communities of interest and there was a degree of support for them with 22 of the 38 submissions received supporting the proposal. As a result of submissions received, the Council did then amend its initial proposal. It argued that these changes were to better recognise communities of interest as perceived by submitters. These changes included all the Bay of Islands to be within one constituency and all the Tutukaka Coast to be within one constituency. A change was also made to the Kaipara Constituency by moving the boundary north to match the Far North District boundary recognising a natural boundary (the Waipoua Forest) for this community of interest, it also enabled Kaihu to be affiliated with its community of interest.
32. In notifying these changes, the Council noted further minor changes had been made to ensure as much consistency as possible between constituency boundaries and territorial authority or ward boundaries. This reflects the requirement in section 19U(c) of the Act for constituency boundaries, so far as is practicable, to coincide with the boundaries of one or more territorial authority districts or the boundaries of wards. This requirement was one of the subject matters raised by the Whangarei District Council which pointed out the current representation arrangements, based on territorial authority boundaries, complied fully with the '+/-10% rule' set out in section 19V. The question we had to address was the weighting to be given to the section 19U(c) requirement against the section 4 principle of the Act to achieve effective representation of communities and also the specific requirement in section 19U(a) for effective representation of communities of interest.
33. In line with our recommended approach, the starting point for reviews is identification of communities of interest. We believe the Council went through an appropriate process to identify current communities of interest in the region to commence its review. It had not assumed communities of interest were necessarily the same as in 1992 when current arrangements were established. We note, as a matter of interest, that when the region was constituted in 1989 it was divided into five constituencies with Far North District divided into Maungataniwha and Bay of Islands Constituencies, and Whangarei District divided into urban and rural constituencies. After it had identified current communities of interest, the Council then consulted the community on its proposed arrangements based on these communities of interest, and received a measure of support for them. We believe this has been an appropriate process aimed at achieving effective representation of identified communities of interest. We therefore generally endorse the Council proposal for revised constituencies and conclude that it meets, *as far as is practicable*, the requirement for constituency boundaries to coincide with territorial authority or ward boundaries.
34. We then turned our attention to the appeal of Ben Smith who sought an adjustment between the boundaries of the Coastal North and Hikurangi-Coastal Central Constituencies to allow the Hikurangi Swamp to be included in the Coastal North Constituency along with other significant catchments. We agree with Mr Smith's suggestion and note that with the transfer of an estimated 2,100 people to the Coastal North Constituency this would reduce the variations in the ratio of population to members in both constituencies.

Fair representation for electors

35. Section 19V of the Act requires that the electors of each constituency receive fair representation having regard to the population of the region and of that constituency. More specifically, section 19V(2) requires that the population of each constituency divided by the number of members to be elected by that constituency produces a figure no more than 10% greater or smaller than the population of the region divided by the total number of elected members (the '+/-10% fair representation rule').
36. In the Council's final proposal, five of the seven constituencies complied with the '+/-10% rule'. The two constituencies that did not comply were the Hokianga-Kaikohē and Whangarei Urban Constituencies at 12.67% and 10.65% respectively. As noted above, in the Council's initial proposal all constituencies complied with the '+/-10% rule' and it was as a result of submissions received and subsequent moves to achieve more effective representation of communities of interest that these two constituencies no longer complied.
37. We have concluded that the constituency arrangements as proposed by the Council are the most appropriate option for achieving effective representation of communities of interest within the region and that the non-compliance of the two constituencies in question (at 12.67% and 10.65% respectively) are acceptable variations to the fair representation requirement in the circumstances.
38. Accordingly we have decided to uphold the decision of the Council in respect of its proposed representation arrangements for the 2013 elections subject to a boundary change between the Coastal North and Hikurangi-Coastal Central Constituencies. In light of this boundary change, we have decided that the latter constituency should be named Coastal Central Constituency. These arrangements are summarised in the following table.

Constituencies	Population*	Number of councillors per constituency	Population per councillor	Deviation from region average population per councillor	% deviation from region average population per councillor
Te Hiku	17,650	1	17,650	+72	+0.41
Hokianga-Kaikohē	15,350	1	15,350	-2,228	-12.67
Coastal North	34,300	2	17,150	-428	-2.43
Coastal Central	16,550	1	16,550	+1,028	+5.85
Whangarei Urban	38,900	2	19,450	+1,872	+10.65
Coastal South	19,200	1	19,200	+1,622	+9.23
Kaipara	16,200	1	16,200	-1,378	-7.84
Total	158,200	9	17,578		

* These are calculated based on 2011 population estimates and do not exactly sum to the total

Commission's Determination

39. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Northland Regional Council to be held on 12 October 2013, the following representation arrangements will apply:

- (1) Northland Region, as delineated on LG-01-2013-Con-1 deposited with the Local Government Commission, will be divided into seven constituencies.
 - (2) Those seven constituencies will be:
 - (a) Te Hiku Constituency, comprising the area delineated on LG-01-2013-Con-2 deposited with the Local Government Commission
 - (b) Hokianga-Kaikohē Constituency, comprising the area delineated on LG-01-2013-Con-3 deposited with the Local Government Commission
 - (c) Coastal North Constituency, comprising the area delineated on LG-01-2013-Con-4 deposited with the Local Government Commission
 - (d) Coastal Central Constituency, comprising the land delineated on LG-01-2013-Con-5 deposited with the Local Government Commission
 - (e) Whangarei Urban Constituency, comprising the land delineated on LG-01-2013-Con-6 deposited with the Local Government Commission
 - (f) Coastal South Constituency comprising the land delineated on LG-01-2013-Con-7 deposited with the Local Government Commission
 - (g) Kaipara Constituency comprising the land delineated on LG-01-2013-Con-8 deposited with the Local Government Commission.
 - (3) The Northland Regional Council will comprise 9 councillors elected as follows:
 - (a) one councillor elected by the electors of Te Hiku Constituency
 - (b) one councillor elected by the electors of Hokianga-Kaikohē Constituency
 - (c) two councillors elected by the electors of Coastal North Constituency
 - (d) one councillor elected by the electors of Coastal Central Constituency
 - (e) two councillors elected by the electors of Whangarei Urban Constituency
 - (f) one councillor elected by the electors of Coastal South Constituency
 - (g) one councillor elected by the electors of Kaipara Constituency.
40. As required by section 19U(b) of the Local Electoral Act 2001, the boundaries of the above constituencies coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes.

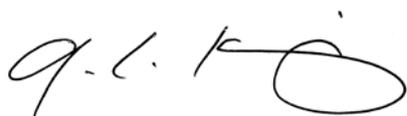
THE LOCAL GOVERNMENT COMMISSION



Basil Morrison (Chair)



Anne Carter (Commissioner)



Grant Kirby (Commissioner)

2 April 2013