



LOCAL GOVERNMENT COMMISSION
MANA KĀWANATANGA Ā ROHE

Determination

of representation arrangements to apply for
the election of the Hawke's Bay 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 Hawke's Bay 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. As a result of appeals/objections on its last review, the representation arrangements that applied for the 2007 and subsequent 2010 elections were determined by the Commission and were for nine 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
Wairoa	8,430	1	8,430	-8,822	-51.14
Napier	57,780	3	19,260	+2,008	+11.64
Hastings	72,690	4	18,173	+921	+5.34
Central Hawke's Bay	16,370	1	16,370	-882	-5.11
Total	155,270	9	17,252		

* These are updated 2011 estimates. At the time of the LGC determination in 2007, the population to member ratios for the Wairoa and Napier Constituencies were -49.37% and +13.28% respectively.

4. At a meeting on 15 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
Wairoa	8,430	1	8,430	-8,822	-51.14
Napier	57,780	3	19,260	+2,008	+11.64
Hastings North	38,440	2	19,220	-1,968	+11.41
Hastings South	37,190	2	18,595	+1,343	+7.78
Central Hawke's Bay	13,430	1	13,430	-3,822	-22.15
Total	155,270	9	17,252		

5. The Council notified its initial proposal on 18 August 2012 and in so doing identified both the Wairoa and Central Hawke's Bay Constituencies, being the same as Wairoa District and Central Hawke's Bay District respectively, as "special communities of interest" warranting non-compliance with the +/-10% fair representation requirement.
6. The Council received 7 submissions on its initial proposal, by the deadline of 18 September 2012.
7. At a meeting on 25 October 2012, after considering the submissions received, the Council resolved to amend its initial proposal by providing for nine members to be elected from four constituencies reflecting the four districts in the region with Hastings Constituency also including the areas of Rangitikei and Taupo Districts included in Hawke's Bay Region. 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
Wairoa	8,430	1	8,430	-8,822	-51.14
Napier	57,780	3	19,260	+2,008	+11.64
Hastings	75,630	4	18,908	+1,656	+9.60
Central Hawke's Bay	13,430	1	13,430	-3,822	-22.15
Total	155,270	9	17,252		

8. The Council notified its final proposal on 27 October 2012 and sought any appeals or objections by 27 November 2012. Three appeals/objections were received from Hastings District Council, Hastings District Rural Community Board and Napier City Council.
9. As the population to member ratios of the Wairoa, Napier and Central Hawke's Bay 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

10. The Commission met with the Council and appellants/objectors at a hearing held in the Hawke's Bay Regional Council chambers on 28 February 2013. The appellants who appeared at the hearing were Mayor Lawrence Yule and Mike Maguire, Group Manager Corporate and Customer Services Manager, representing Hastings District Council; Peter Kay, Chair Hastings District Rural Community Board; and Deputy Mayor Kathie Furlong and Fiona Green, Corporate Services Manager, representing Napier City Council. The Hawke's Bay Regional Council was represented by Chair Fenton Wilson.

Matters raised in appeals/objections and at the hearing

11. Council Chair Fenton Wilson read a prepared statement outlining the process adopted by the Council for its review and matters relevant to the decisions made by the Council. These latter matters included fair representation of the rural voice, the size of the current Hastings Constituency, and retention of Wairoa Constituency as a distinct community of interest. The Council had considered a number of options relating to these matters with either four or five constituencies and additional councillors. It acknowledged the Hastings Constituency covered a large area and options to split it were with a view to providing more effective representation for communities of interest. It had, however, after considering submissions received decided to retain the status quo in relation to the number of constituencies. It also considered Central Hawke's Bay Constituency should be returned to its reduced boundaries, reflecting district boundaries, following some confusion resulting from the extension of these boundaries at the last review.
12. Mayor Lawrence Yule read a prepared statement on behalf of Hastings District Council in support of its objection to the Regional Council's proposal. He said his Council considered Hastings District was a diverse and distinct community of interest which can be subdivided into urban, plains and rural, and this had not been recognised by the Regional Council in its final proposal. His Council considered the plains community was more closely aligned to the rural community and this was consistent with the approach Hastings District Council had taken in its own representation review. His Council had placed before the Regional Council a proposal for an urban and a rural constituency in its submission on the initial proposal. This, with some additional meshblocks, would result in regional constituencies more closely coinciding with territorial authority ward boundaries consistent with section 19U of the Local Electoral Act. Mr Yule said his Council's proposal, by more specifically recognising the distinct urban and rural communities of interest would provide more effective representation for these communities as a result.
13. Peter Kay, Chair of the Hastings District Rural Community Board appeared before the Commission in support of that board's objection to the Council's proposal. He said the board supported the Hastings District Council's proposal for urban and rural constituencies for Hastings to be established. He said board members often got inquiries from farmers and other people in the rural community regarding regional council matters and the board considered it would be less confusing for members of the public if there was a clearer urban-rural split in representation for the regional council. Mr Kay said his board did not support splitting the Hastings urban area in a north-south split of the current constituency.

14. Deputy Mayor Kathie Furlong read a prepared statement on behalf of the Napier City Council in support of that Council's objection to the Regional Council's proposal. She said her Council had supported the Regional Council's initial proposal for splitting the current Hastings Constituency. This was based on feedback received from residents to the west and north of Napier who felt they lacked representation on the regional council and they had a different community of interest from those in the south. The final regional council proposal perpetuated the possibility that all representatives on the regional council would be urban dwellers. Napier City Council did not support an urban-rural split of the constituency as one rural councillor would still have a large area to cover. It also did not consider land use should form the basis for representation.

Requirements for determination

15. 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.*

16. 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.*
17. 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

18. 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

19. 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.
20. The Commission considers that constituencies should be based on distinct and recognisable communities of interest reflecting these dimensions.

Effective representation of communities of interest

21. 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.
22. 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.
23. Section 19D of the Act provides that a regional council shall consist of between 6 and 14 members. The Council comprised 14 members when constituted in 1989 and nine 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.
24. 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.
25. 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 to a large extent in Hawke's Bay Region.
26. The Council based its initial proposal on territorial authority boundaries reflecting identified communities of interest, namely Wairoa, Napier, Hastings (including the areas of Rangitikei and Taupo Districts in Hawke's Bay Region) and Central Hawke's Bay. Apart from the question as to whether Hastings Constituency should or should not be split in two, these proposed constituencies were generally supported by all parties. We address each proposed constituency below in relation to fair representation for electors.

Fair representation for electors

27. 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'). Only one of the Council's proposed four constituencies complied with the '+/-10% rule'.
28. In relation to the proposed Wairoa Constituency, we noted the following comments of the Commission in its determination on the last review in 2007.
- We first addressed the issue of the proposed Wairoa Constituency and its non-compliance with the +/-10% rule ... we agree that a separate Wairoa Constituency is necessary to ensure effective representation of this community of interest. In summary we agree that:*
- Wairoa has a community of interest distinct from the rest of the region, both physically and socio-economically, and this presents particular challenges for community consultation and provision of services;*
 - the physical realities of the area give rise to particular issues not experienced elsewhere including hill country erosion, pressure on coastal development, pest management, transport infrastructure biodiversity protection, wetland enhancement, flooding and other natural hazards;*
 - effective representation is most unlikely to be achieved by merging Wairoa into another constituency in order to comply with the +/-10% rule as this would result in a very large area (70% of the land area of the region) with few commonalities of interest and still eligible for only one councillor;*
 - effective representation would be compromised in terms of both access to a councillor and representation of the diversity of the constituency; and*
 - the demands on a councillor servicing an enlarged area would be unreasonable.*
29. We agree with the comments of the then Commission and endorse the proposal for a Wairoa Constituency based on Wairoa District boundaries.
30. We then turned to the proposed Central Hawke's Bay Constituency which the Council proposed be reduced from its current size so as to coincide with Central Hawke's Bay District boundaries. We note that in the 2007 review the then Commission noted "*we heard from the Council that the arguments were not strong for an exception to the +/-10% rule*". Accordingly the Commission added some areas of Hastings District to the Central Hawke's Bay Constituency to ensure compliance with the '+/-10% rule'. In the current review, the Council took another view. It advised us that the addition of areas of Hastings District to Central Hawke's Bay Constituency had caused confusion for residents living relatively close to the Hastings urban area but now located within Central Hawke's Bay Constituency. These people are within Hastings District and identify with Hastings District councillors, and they have no significant connections with Central Hawke's Bay. We were told this confusion was demonstrated during Council consultation with resource consent holders in relation to Ngarururo River on potential off-river water storage. The Council also said it considered the area of Central Hawke's Bay Constituency, based on Central Hawke's Bay District, was already a significantly large area for one councillor to service with particular issues of

concern like hill country erosion, pressure on coastal development, biodiversity protection, flooding and other natural hazards. Central Hawke's Bay Constituency also faced significant new challenges not faced elsewhere in the region, in relation to the proposed Ruataniwha water storage dam. We were satisfied, on the basis of the arguments put to us by the Council and supported by all of the objectors, that there was a case for reducing the size of Central Hawke's Bay Constituency to coincide with Central Hawke's Bay District, consistent with section 19U(c), notwithstanding it would not comply with the section 19V(2) fair representation requirement. We endorse the Council proposal in this respect accordingly.

31. In relation to the proposed Napier Constituency which also did not comply with section 19V(2), we again noted comments by the Commission in its 2007 determination. Firstly it commented:

In excess of 2,000 people would need to be transferred from this constituency if it were to equate to the region average population per councillor with a minimum of over 500 to be transferred in order to be within a +/-10% variation.

The Commission went on:

Given the numbers involved and the predominantly urban nature of the Napier Constituency, we note that a large segment of the outlying area of Napier City would have to be transferred to the adjoining Hastings Constituency. We also note that the neighbouring parts of the Hastings Community are primarily rural or semi-rural in nature. While it is guided by the principle of fair representation defined in the Act by the +/-10% rule, the Commission considers it is also appropriate to be guided by the requirement to ensure, so far as is practicable, constituency boundaries coincide with territorial authority boundaries. The Commission sees this as important as territorial authorities reflect communities of interest based on the delivery of a wide range of day-to-day services. Territorial authority districts are also areas that electors closely identify with which in turn encourages participation in local government such as by voting or standing as a candidate at local elections.

32. The situation remained very similar at this review in terms of the numbers needing to be transferred out of Napier Constituency in order to comply with section 19(V)(2) although the variation at +11.64% is less than in 2007 and even more marginal. Accordingly we also endorse the Council proposal in relation to this constituency.
33. Finally we turned our attention to the Council's proposed single Hasting Constituency noting the Council had initially proposed splitting this constituency into north and south constituencies. The initial proposal was based on concerns about the size of the constituency and the effect this has on achievement of effective representation. All three objectors also had concerns in this regard with two proposing an urban-rural split and the other that the Council return to its initially proposed north-south split. While a north-south split, based on the initial proposal, would result in smaller constituencies, we were concerned, as were the other two objectors, that this would split the combined Hastings urban area comprising Flaxmere, Hastings and Havelock North Wards of Hastings District. We believe there is a strong commonality of interest between these urban wards and agree with the Hastings District Council and Hastings District Rural Community Board that they should not be split between different regional constituencies. We also note that by including the Flaxmere and Hastings Wards in the proposed Hastings North Constituency (the Council's initial proposal), Napier City Council's concerns that representatives would be likely to come from the Hastings urban area were less likely to be addressed than under an urban-rural split. Accordingly we have decided to adopt the urban-rural split

proposed by the Hastings District Council. This also entails the addition of some meshblocks around the three urban wards which the Council identified as having commonalities in community of interest with the proposed Hastings Urban Constituency, such as Whakatu with its large industrial focus. We note the Hastings Rural Constituency does not comply with the '+/-10% rule' but, as argued above, we believe this to be necessary for achievement of effective representation for the community of interest in this constituency.

34. Our decisions in relation to regional constituencies 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
Wairoa	8,430	1	8,430	-8,822	-51.14
Napier	57,780	3	19,260	+2,008	+11.64
Hastings Rural	19,905	1	19,905	+2,653	+15.38
Hastings Urban	55,605	3	18,535	+1,283	+7.44
Central Hawke's Bay	13,430	1	13,430	-3,822	-22.15
Total	155,270	9	17,252		

* These figures do not exactly add to the total as the figures for the Hastings Rural and Hastings Urban Constituencies are calculated on 2006 meshblock totals while the other constituencies are 2011 estimates.

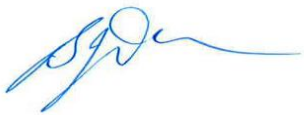
Commission's Determination

35. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Hawke's Bay Regional Council to be held on 12 October 2013, the following representation arrangements will apply:
- (1) Hawke's Bay Region, as delineated on LG-06-2013-Con-1 deposited with the Local Government Commission, will be divided into five constituencies.
 - (2) Those five constituencies will be:
 - (a) Wairoa Constituency, comprising the area delineated on SO Plan 9853 deposited with Land Information New Zealand
 - (b) Napier Constituency, comprising the area delineated on SO Plan 9855 deposited with Land Information New Zealand
 - (c) Hastings Rural Constituency, comprising the area delineated on LG-06-2013-Con-2 deposited with the Local Government Commission
 - (d) Hastings Urban Constituency, comprising the land delineated on LG-06-2013-Con-3 deposited with the Local Government Commission
 - (e) Central Hawke's Bay Constituency, comprising the land delineated on LG-06-2013-Con-4 deposited with the Local Government Commission.
 - (3) The Hawke's Bay Regional Council will comprise 9 councillors elected as follows:
 - (a) one councillor elected by the electors of Wairoa Constituency
 - (b) three councillors elected by the electors of Napier Constituency

- (c) one councillor elected by the electors of Hastings Rural Constituency
- (d) three councillors elected by the electors of Hastings Urban Constituency
- (e) one councillor elected by the electors of Central Hawke's Bay Constituency.

36. 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)

9 April 2013