



**LOCAL GOVERNMENT COMMISSION**  
**MANA KĀWANATANGA Ā ROHE**

## **Determination**

of representation arrangements to apply for  
the election of the Wellington 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. The Wellington 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.
2. As a result of appeals/objections lodged, the Commission determined the Council's representation arrangements for the 2007 elections. These arrangements also applied for the 2010 elections and were for 13 councillors elected as follows:

<b>Constituencies</b>	<b>Population*</b>	<b>Number of councillors per constituency</b>	<b>Population per councillor</b>	<b>Deviation from region average population per councillor</b>	<b>% deviation from region average population per councillor</b>
Kapiti Coast	49,800	1	49,800	+12,285	+32.75
Porirua-Tawa	67,600	2	33,800	-3,715	-9.90
Upper Hutt	41,500	1	41,500	+3,985	+10.62
Lower Hutt	103,000	3	34,333	-3,182	-8.48
Wellington	185,200	5	37,040	-475	-1.27
Wairarapa	40,600	1	40,600	+3,085	+8.22
<b>Total</b>	<b>487,700</b>	<b>13</b>	<b>37,515</b>		

\* These are updated 2011 population estimates. At the time of the 2007 review only the Kapiti Coast Constituency did not comply with the section 19V '+/-10% fair representation requirement'.

3. For the 2013 elections, the Council has resolved that the elections will be conducted using the STV electoral system.

4. On 13 June 2012 the Council resolved its initial proposed representation arrangements to apply for the 2013 elections. These were publicly notified between 18 and 21 June 2012.
5. The Council's initial proposal was that the Council comprise 14 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
Kapiti Coast	49,800	1	49,800	+14,964	+42.96
Porirua-Tawa	67,600	2	33,800	-1,036	-2.97
Upper Hutt	41,500	1	41,500	+6,664	+19.13
Lower Hutt	103,000	3	34,333	-503	-1.44
Wellington	185,200	5	37,040	+2,204	+6.33
Wairarapa	40,600	2	20,300	-14,536	-41.73
<b>Total</b>	<b>487,700</b>	<b>14</b>	<b>34,836</b>		

\* 2011 population estimates

6. In notifying its initial proposal, the Council identified the need to depart from the '+/- 10% fair representation requirement' in three constituencies (the Kapiti Coast, Upper Hutt and Wairarapa Constituencies) in order to provide effective representation for communities of interest in those constituencies. In respect of the Wairarapa Constituency it noted that the election of two members was necessary to provide effective representation for communities of interest taking into account:
  - the large land area of the Wairarapa Constituency being 74% of the Wellington region
  - the significant amount of Greater Wellington work undertaken in the Wairarapa Constituency together with the increased focus on water quality and land management issues in the constituency via Government and other processes which is requiring greater elected member involvement
  - the diverse, relatively sparsely populated and widely spread communities that make up the Wairarapa Constituency.
7. The Council received 10 submissions on its initial proposal. The Council identified three key themes from these submissions as follows:
  - 7 submitters opposed the proposal to increase the number of elected members in the Wairarapa Constituency to two
  - 3 submitters stated their support for two representatives in the Wairarapa
  - 3 submitters proposed that the Lower Hutt Constituency be divided into three single-member constituencies.
8. On 21 August 2012, the Council received a report from its hearings committee on the submissions received on the Council's initial representation proposal and resolved to adopt its initial proposal as its final proposal subject to the Wairarapa Constituency being represented by one elected member. These arrangements were 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
Kapiti Coast	49,800	1	49,800	+12,285	+32.75
Porirua-Tawa	67,600	2	33,800	-3,715	-9.90
Upper Hutt	41,500	1	41,500	+3,985	+10.62
Lower Hutt	103,000	3	34,333	-3,182	-8.48
Wellington	185,200	5	37,040	-475	-1.27
Wairarapa	40,600	1	40,600	+3,085	+8.22
<b>Total</b>	<b>487,700</b>	<b>13</b>	<b>37,515</b>		

\* 2011 population estimates

9. The Council notified its final proposal on 25 August 2012 and sought any appeals or objections by 25 September 2012. In notifying its final proposal, the Council noted that it considered the change appropriate as, in accordance with the requirements of the Act, the final proposal provided fair representation for the electors of the Wairarapa Constituency.

### Appeals/objections against final proposal

10. Two appeals/objections were received as follows:
- Michael Gibson: objected to the unfair way in which the Council approached its task and the failure to address the inequity that arises from proposed representation for Kapiti Coast, and proposed an alternative five-constituency and ten-member structure; he also separately appealed over the unfair under-representation for Kapiti Coast and the failure of the Council to address this issue and repeated his proposed alternative structure
  - Chris Turver: objected to the imbalance in the population/member ratio in Kapiti Coast and suggested the need for a second member for this area.

### Procedural issues

11. The Commission sought legal advice on the status of the appeals/objections received from Mr Gibson and Mr Turver given the content of these, the fact Mr Gibson made a submission on the Council's initial proposal and the contents of that submission, and the requirements of sections 19O and 19P of the Act relating to appeals and objections. Based on the advice received, the Commission decided to accept the correspondence received as objections under section 19P given the Council had amended its initial proposal.
12. As noted, Mr Gibson submitted both an 'objection' and an 'appeal' against the Council's final proposal. His objection was to "the unfair way in which the Council has approached its task ... (and) the extraordinary failure to address the inequity which arises from its proposal that Kapiti's representation should alone be outside the upper limits described in the legislation for population per councillor". Mr Gibson also appealed against "the inordinately unfair under-representation of Kapiti & the failure of the ... Council to address this issue".

13. Section 19R of the Act makes it clear that the Commission is required to determine, in the case of a regional council, the matters set out in section 19I of the Act which relate to representation arrangements for regional councils. For this purpose, the Commission may make such enquiries as it considers appropriate and may hold meetings with interested parties. 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 the fairness of representation for the Kapiti Coast Constituency and therefore the approach the Council adopted was not a matter that the Commission needed to address.
14. As noted, the Council amended its initial proposal by reducing the representation for the Wairarapa Constituency back to one councillor in its final proposal. This constituency complied, as a result, with the '+/-10% fair representation requirement' of section 19V of the Act. Consequently the representation of the Kapiti Coast Constituency, vis-à-vis the rest of the region, along with total council membership, were the primary issues for the Commission to consider (noting the Upper Hutt Constituency failed marginally also to comply with section 19V). Given the information set out in the documentation received from the Council, the Commission decided that no hearing of the objections was required and proceeded to make a determination.

### 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).*

- 19J. **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. 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**

17. The steps in the process for achieving required effective and fair 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*

18. 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.
19. The Commission considers that constituencies should be based on distinct and recognisable communities of interest reflecting these dimensions.

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

20. 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.
21. 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.
  22. Section 19D of the Act provides that a regional council shall consist of between 6 and 14 members. The Council comprised 14 members from the 1992 elections (following the introduction of the new 14-member statutory limit) which reduced to 13 members from the 2001 elections onwards.
  23. Both objectors raised the issue of the total number of members with one proposing a reduction and one an increase to the maximum allowable. It appeared that both objectors raised the issue in the context of fair representation as distinct from the impact on effective representation of communities of interest. This was a concern particularly in the case of Mr Gibson's proposed reduction in total membership to ten councillors. We note no other submissions were received proposing a reduction in membership and that, to the contrary, the Council had initially proposed an increase in membership to 14 councillors given the nature of the Council's obligations particularly in respect of the Wairarapa. On the basis of effective representation of communities of interest and in the absence of information on the impact of a reduction, we do not support the suggested reduction to ten councillors.
  24. 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.
  25. Since its constitution in 1989, the Wellington Region has been divided into constituencies, as required by section 19E of the Act, largely based on territorial authority boundaries. These constituencies have remained relatively constant with variations being the three Wairarapa territorial authorities combined into one constituency (from 1989), Wellington City in the past being divided into two constituencies and the Tawa community being part of a northern Wellington constituency in the past. In general we believe that the current territorial authority boundaries continue to provide an appropriate basis for identifying communities of interest in the Wellington Region.
  26. 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.

27. We noted that the Council commenced its review of representation arrangements by holding a workshop in February 2012 to consider representation options. Four options were identified:
- the status quo
  - the status quo modified by the inclusion of the Tawa community in the Wellington Constituency
  - a merged constituency model with the Upper Hutt and Lower Hutt Constituencies merged and Kapiti Coast and part Porirua Constituencies merged
  - a modified merged model as above with the whole of the Porirua-Tawa Constituency merged with the Kapiti Coast Constituency.
28. In the 2007 review, the Council proposed the merging of the Kapiti and Porirua Constituencies (included in its initial and final proposals) and the two Hutt Valley constituencies (included in its initial proposal only). After consideration of appeals received, the Commission determined that Kapiti Coast and Porirua were distinct communities of interest and the separate constituencies should be retained. While a merged constituency was again identified as an option by officers in the current review, it was not adopted notwithstanding it would comply with the ‘+/-10% fair representation rule’.
29. Neither of the objectors raised the option of merging the Kapiti Coast and Porirua Constituencies and there appears to be little or no support for such a proposal.

*Fair representation for electors*

30. 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’). Two of the six constituencies in the Council’s final proposal did not comply with this requirement.
31. The Upper Hutt Constituency is only marginally outside the requirement (10.62%). One option to address this was to merge the two Hutt Valley constituencies which would result in over-representation of 3.7%. We noted this was one option considered by the Council both in 2006 and again in its initial workshop for the current review. It was strongly opposed in 2006 and was not pursued beyond the initial workshop in this review. We do not believe the slight variation from the ‘+/-10% fair representation rule’ warrants adoption of this option at this time.
32. The more significant variation from the ‘+/-10% rule’ is in the Kapiti Coast Constituency with 32.75% under-representation. On the basis that merging this constituency with neighbouring Porirua Constituency was not supported, there appeared to be few options to address this issue (apart from an overall reduction in the number of members as addressed above). To provide another member for the Kapiti Coast Constituency would result in significant over-representation for that constituency given the 14- member limit for regional councils. It would also result in significant under-representation (i.e. in excess of 10%) in the Wairarapa and Upper Hutt Constituencies in relation to the rest of the region.

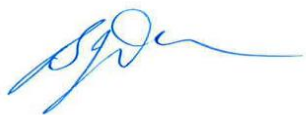
33. We noted that the previous Commission in its 2007 determination acknowledged that while the degree of under-representation in the Kapiti Coast Constituency was undesirable (i.e. the degree of variance from the '+/-10% rule'), it understood that residents of Kapiti Coast preferred this option to the merging of the constituency with the neighbouring Porirua Constituency . The lack of submissions and appeals/objections from the Kapiti area in this review, with the exception of one objector, we believe continues to provide support for this view.
34. On this basis we believe the Council's final proposal including a separate Kapiti Coast Constituency electing one councillor, albeit with a reasonably significant level of under-representation, is the most appropriate arrangement at this time.

### **Commission's Determination**

35. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Wellington Regional Council to be held on 12 October 2013, the following representation arrangements will apply:
- (1) Wellington Region, as delineated on SO Plan 35951 deposited with Land Information New Zealand, will be divided into six constituencies.
  - (2) Those six constituencies will be:
    - (a) the Kapiti Coast Constituency, comprising the area delineated on SO Plan 35952 deposited with Land Information New Zealand
    - (b) the Porirua-Tawa Constituency, comprising the area delineated on SO Plan 35953 deposited with Land Information New Zealand
    - (c) the Wellington Constituency, comprising the area delineated on SO Plan 37891 deposited with Land Information New Zealand
    - (d) the Lower Hutt Constituency, comprising the land delineated on SO Plan 35956 deposited with Land Information New Zealand
    - (e) the Upper Hutt Constituency, comprising the land delineated on SO Plan 35957 deposited with Land Information New Zealand
    - (f) the Wairarapa Constituency comprising the land delineated on SO Plan 35958 deposited with Land Information New Zealand.
  - (3) The Wellington Regional Council will comprise 13 councillors elected as follows:
    - (a) one councillor elected by the electors of the Kapiti Coast Constituency
    - (b) two councillors elected by the electors of the Porirua-Tawa Constituency
    - (c) five councillors elected by the electors of the Wellington Constituency
    - (d) three councillors elected by the electors of the Lower Hutt Constituency
    - (e) one councillor elected by the electors of the Upper Hutt Constituency
    - (f) one councillor elected by the electors of the Wairarapa 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)

19 November 2012