



## Determination

of representation arrangements to apply for the election of the  
Northland Regional Council to be held on 8 October 2022

### Background

1. All regional councils are required by 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 constituencies, the name and boundaries of those constituencies and the number of councillors to be elected by each constituency.
2. The Northland Regional Council (the council) last reviewed its representation arrangements prior to the 2019 local authority elections. In October 2020 it resolved to establish Māori constituencies. Accordingly, it was required to undertake a review prior to the next elections in October 2022.
3. The Commission last made a determination in relation to Northland Regional Council's representation in 2019. The Council's current representation arrangements comprise nine councillors elected as follows:

Constituency	2020 electoral population estimate*	Number of councillors	Population per councillor	Deviation from region average population per councillor	% deviation from region average population per councillor
Te Hiku	22,180	1	22,180	558	+2.58%
Hokianga-Kaikohe	17,750	1	17,750	-3,872	-17.91%
Kaipara	18,390	1	18,390	-3,232	-14.95%
Coastal North	47,720	2	23,860	2,238	+10.35%
Whangārei Urban	44,300	2	22,150	528	+2.44%
Coastal Central	21,690	1	21,690	68	+0.31%
Coastal South	22,570	1	22,570	948	+4.38%
<b>Total</b>	<b>194,600</b>	<b>9</b>	<b>21,622</b>		

\*Based on Tatauranga Aotearoa Stats NZ 2020 population estimates

### Current review: Council process and proposal

#### *Preliminary consultation*

4. Between November 2020 and April 2021 the Council held Council workshops to consider the council size and arrangements for its Māori and general constituencies.

### *The Council's initial proposal*

5. On 28 July 2021 the council resolved as its initial representation proposal a council comprising nine members elected from eight constituencies.
6. The initial proposed constituency arrangements were as follows:

Constituency	2020 electoral population estimate*	Number of councillors	Population per councillor	Deviation from region average population per councillor	% deviation from region average population per councillor
Far North General	21,500	1	21,500	514	+2.45%
Bay of Islands-Whangaroa General	21,100	1	21,100	114	+0.54%
Kaipara General	19,900	1	19,900	-1,086	-5.17%
Mid North General	20,300	1	20,300	-686	-3.27%
Coastal Central General	20,800	1	20,800	-186	-0.88%
Whangārei Central General	22,300	1	22,300	1,314	+6.26%
Coastal South General	21,000	1	21,000	14	+0.07%
<b>Total general</b>	<b>146,900</b>	<b>7</b>	<b>20,986</b>		
Te Raki Māori	47,610	2			
<b>Total region</b>	<b>194,510</b>	<b>9</b>			

\*Based on Tatauranga Aotearoa Stats NZ 2020 population estimates

7. The Council notified its proposal on 10 August 2021 and received 33 submissions; 31 by the deadline of 10 September 2021 and two late submissions.
8. Key themes in the submissions were:
  - a. Five submissions did not support the proposal to move Whangārei's outer fringes/suburbs into the surrounding constituencies.
  - b. Six submissions supported the proposed number of councillors, nine proposed more (10, 11, 12 and 14), and one proposed eight councillors.
  - c. Six submissions asked for multiple Māori constituencies rather than a single district-wide constituency.
  - d. One submission asked for a single district-wide general constituency.
9. On 5 October 2021 the Council met to deliberate on submissions and confirmed its agreement with an officer recommendation to retain the initial proposal as the final proposal.

### *The Council's final proposal*

10. At a meeting on 19 October 2021, the Council resolved its initial proposal as its final proposal for the 2022 local elections.
11. The Council publicly notified its final proposal on 22 October 2021.

## **Appeals against the council's final proposal**

12. The Council received two appeals against the final proposal which it referred the appeals to the Commission, in accordance with section 19Q of the Act.
13. Two appeals received on the Council's final proposal. Both appeals were considered valid or partially valid. They covered the following matters:
  - a. The number of councillors should be increased to better ensure effective representation.
  - b. Concern that the proposed number and boundaries of general constituencies do not ensure effective representation of communities of interest.
  - c. Both appellants propose alternative representation arrangements, as follows:
    - Retaining the current nine constituencies electing nine general constituency councillors
    - A single district-wide general constituency

## **Hearing**

14. The Commission met with the Council and the two appellants at a hearing held online on Monday 21 March 2022. The Council was represented at the hearing by Chair Penny Smart.
15. The following appellants appeared at the hearing:
  - a. Oliver Krollmann
  - b. Margaret Hicks

## ***Matters raised at the hearing***

16. Chair Penny Smart, supported by Chief Executive Malcolm Nicolson, explained the process the Council had followed in carrying out its representation review and reaching its final proposal. She emphasised the following points:
  - a. The region's population was evenly split between rural and urban areas.
  - b. The Te Taitokerau Māori and Council Working Party (TTMAC), a joint iwi, hapū and Council advisory group, preferred a council of eleven comprising eight general and three Māori constituency councillors.
  - c. A council of nine members meant two less general constituency councillors than currently but avoided having to spread the remuneration pool more widely.
  - d. There was a concern that reduced remuneration would reduce the Council's ability to attract diverse candidates.
  - e. A lot of the work between councillors happened online, providing more time for individual councillors to spend in the community.
  - f. The region's lifestyle communities work exceptionally well with rural communities on environmental work.

- g. While territorial authority boundaries do align in part to constituency boundaries, they do not always match regional communities of interest.
- 17. The appellants emphasised the following points in opposition to the Council's proposal:
  - a. Voter choice is constrained by constituencies where candidates stand unopposed.
  - b. A regional council is more closely focussed on environmental challenges for the region as a whole, rather than specific to geographically defined areas.
  - c. A growing portion of councillors' engagement with the community can be achieved online or with community groups rather than individuals.
  - d. A reliance on online methods of communication and engagement excludes segments of the population without internet access.

### **Matters for determination by the Commission**

- 18. Section 19R of the Act makes it clear that the Commission, in addition to the consideration of appeals and objections, is required to determine all the matters set out in sections 19I of the Act which relate to representation arrangements for regional authorities. This interpretation was reinforced by a 2004 High Court decision which found that the Commission's role is not merely supervisory of a local authority's representation arrangements decision. The Commission is required to form its own view on all the matters which are in scope of the review.
- 19. The matters in the scope of the review are:
  - the number, boundaries and names of the proposed constituencies
  - the proposed number of councillors for each constituency

### **Key considerations**

- 20. Based on the legislative requirements, the Commission's *Guidelines for local authorities undertaking representation reviews* (the Commission's Guidelines) identify the following three key factors when considering representation proposals:
  - communities of interest
  - effective representation of communities of interest
  - fair representation for electors.

### **Communities of interest**

- 21. The Commission's Guidelines identify three dimensions for recognising communities of interest:
  - *perceptual*: a sense of identity and belonging to a defined area or locality as a result of factors such as distinctive geographical features, local history, demographics, economic and social activities

- *functional*: ability of the area to meet the needs of communities for services such as local schools, shopping areas, community and recreational facilities, employment, transport and communication links
  - *political*: ability to represent the interests of local communities which includes non-council structures such as for local iwi and hapū, residents and ratepayer associations and the range of special interest groups.
22. Under Section 19E of the Act, regions must be divided into constituencies for electoral purposes. For the purpose of effective representation of communities of interest, section 19U(c) requires constituency boundaries, so far as is practicable, to coincide with territorial authority boundaries or with territorial authority ward boundaries.
  23. Given these requirements, we believe it is reasonable to take the communities of interest reflected in existing territorial authorities or their wards, as a starting point for communities of interest to be reflected in regional council constituencies.
  24. In the case of Northland, from 1992 until the 2013 election the region was divided into three constituencies coinciding fully with the boundaries of the region's three territorial authorities. In 2013, the council proposed establishing seven constituencies "to better reflect regional communities of interest". The communities of interest were seen as being urban (Whangārei the largest commercial hub), coastal recreation/lifestyle, rural farming, Māori land, Department of Conservation land, and forestry.
  25. As a result, the constituencies related reasonably closely to a mix of both territorial authority and territorial authority ward boundaries, with variations due primarily to effective water catchment management considerations.
  26. In its 2019 determination for Northland Council, the Commission endorsed some boundary changes proposed by the Council but recommended that in its next review, it undertake more work relating to communities of interest particularly in relation to the Whangārei urban area and the part of the Coastal South Constituency made up of the eastern area of the Kaipara District.
  27. It is fair to say that one of the challenges for us in this review was the lack of detailed discussion of the region's communities of interest in the Council's review documentation. This meant it was not immediately clear to us that the Council had defined its communities of interest and their representation needs as a basis for deciding their representation arrangements.
  28. At the hearing the Council described the region's communities of interest as follows:
    - a. A large rural component.
    - b. Population concentrations in the Whangārei urban area and along the east coast to and including the Bay of Islands.
    - c. A mid-north area comprising lifestyle and rural communities with few commonalities with urban and coastal communities, and to an extent reflecting iwi rohe boundaries.
    - d. Lifestyle communities on the Whangārei urban fringe with a strong connection with rural communities on environmental issues

- e. A northern area characterised by remoteness, a higher Māori population than the rest of the region, with some similar coastal landscape and geography
- 29. The Council added that the proposed constituency boundaries also incorporated changes to better reflect catchments or iwi rohe boundaries, noting that the latter will occur over a number of reviews as Treaty of Waitangi claims for iwi in the region are settled.
- 30. We acknowledge councillors' implicit understanding of the region's communities of interest has likely informed the review. However, to ensure a robust and transparent process we recommend that for future reviews, the region's communities of interest are explicitly described in the Council's review documentation along the lines of the Chair's commentary at the hearing.

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

- 31. 'Effective representation' is not defined in the Act. The Commission's Guidelines note that what constitutes effective representation will be specific to each local authority but that the following factors should be considered:
  - a. avoiding arrangements that may create barriers to participation, such as at elections by not recognising residents' familiarity and identity with an area
  - b. not splitting recognised communities of interest between electoral subdivisions
  - c. not grouping together two or more communities of interest that share few commonalities of interest
  - d. accessibility, size and configuration of an area including access to elected members and vice versa.
- 32. Section 19D of the Act provides that regional councils shall consist of between six and 14 members. The Council comprised 12 members when constituted in 1989 and eight members from 1992, increasing to nine members in 2013.
- 33. The Commission's Guidelines 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 total number of members should not be arrived at solely as the product of the number of members per constituency.

### **Fair representation for electors**

- 34. For the purpose of achieving fair representation for the electors of a district, section 19V(2) of the Act requires that the population of each constituency divided by the number of members to be elected by that constituency must produce a figure no more than 10 per cent greater or smaller than the population of the district divided by the total number of members (the '+/-10% rule').
- 35. Section 19V(3)(b) provides further that, if a regional council or the Commission considers that effective representation of communities of interest so requires, constituencies may be defined and membership distributed between them in a way that does not comply with the '+/-10% rule' (section 19V(2)).

36. For this review, the Council settled on a total of nine members. The consultation document issued to the public for submissions on the Council's initial proposal summarised the rationale for a total of nine councillors as follows:
- a. Adequate numbers to spread workload while maintaining cohesive decision making;
  - b. Ability to be inclusive, collaborative, agile and make decisions quickly;
  - c. Ability to build a tight-knit team with strong working relationships;
  - d. Ensuring remuneration is at a sufficient level to make it a viable career option, attract younger age groups and people from all backgrounds (the Remuneration Authority decides the total amount that can be paid in remuneration to councillors in each individual council);
  - e. Enabling voting by majority if needed (by having an odd number of councillors).
37. The Council Chair reiterated some of the above points at the hearing. They are factors that could be seen to relate to effective decision-making. However, for the most part they do not draw a clear link between the number of councillors and effective representation of communities of interest as defined in the Commission's Guidelines.
38. At the hearing, the appellant Margaret Hicks explained her concerns in relation to the ability of people to access councillors and vice versa. In her appeal, Ms Hicks asked to retain nine general constituency councillors and the current general constituency boundaries arguing that they would ensure better access than the Council's proposal.
39. We have also noted the clear preference expressed through TTMAC by the Council's iwi and hapū partners for a council of eleven members, which allows for eight general and three Māori constituency councillors.
40. We explored this further at the hearing. In response to questions, the Council Chair explained that increasing the number of councillors would reduce the remuneration available for each councillor and would be likely to discourage potential candidates. She also explained that TTMAC had accepted the Council's rationale for a council of nine.
41. While we appreciate that remuneration levels are a concern for many councils, we are not convinced that capping councillor numbers to maintain remuneration levels will ensure more effective representation in the form of a broader range of candidates. In our view, a representation review is not the appropriate mechanism for addressing councillor remuneration.
42. In relation to Ms Hicks' appeal, as a result of splitting the Māori electoral population (MEP) and the general electoral population (GEP) five of the region's current seven constituencies would be non-compliant with the '+/-10% rule'. The largest non-compliance is for the Hokianga-Kaikohe Constituency at -45.85%. While the Commission can endorse non-compliance in prescribed circumstances, we do not have any evidence to suggest such a large over-representation is justified. Ms Hicks' proposal to retain the current arrangement is therefore not possible

43. However, we did share some of Ms Hicks concerns in relation to the ability of councillors to provide effective representation for constituencies that are in some cases geographically very large. We note the Council did consider options for a council of 11 members with different constituency boundaries that produced minor, or no deviation from the '+/-10% rule'. However, as the options still produced some geographically large constituencies we see no advantage in pursuing these options at this stage.
44. The Council acknowledged the issue of geographically large constituencies at the hearing and explained that under the current arrangements the Council provided additional support for councillors in the larger and more isolated constituencies in the form of staff time. Travel allowances also assisted councillors with large constituencies. It was intended that these arrangements would continue under the Council's proposed arrangements, particularly for councillors representing the Te Hiku General and district-wide Te Raki Māori Constituencies.
45. The Council Chair added that the Council's governance structure includes working parties with specific focus areas, such as climate change. These working parties engage with communities across the region and provide points of contact for the community in addition to the constituency councillors.
46. Alternatively, appellant Oliver Krollmann, asks for a single district-wide general constituency arguing that increased online engagement makes it easier for councillors to provide effective representation across a large geographic area. At the hearing he explained that district-wide voting provides a better opportunity for voters to support candidates whose values they share.
47. While we agree that online communication is a growing part of how many of us do business, we do not consider it a replacement for in person, on the ground engagement. For example, Census 2018 data shows that 73.1% of households in one of the most remote areas of the region, the North Cape, have internet access compared to 80.1% for the Northland region.
48. Furthermore, the Whangarei district comprises 79,600, or 54.11% of the Northland region's GDP. This suggests a possibility that voters in the more densely populated Whangarei district may overwhelm those in the more sparsely populated parts of the region under a district-wide arrangement. For these reasons, we do not consider a district-wide general constituency would provide effective representation.
49. Having heard the Council's explanation of the region's communities of interest at the hearing, we are satisfied that the proposed constituency boundaries group the region's communities of interest appropriately. As a result, we consider that the proposed number of members and constituency boundaries can provide effective representation for the region's communities of interest, subject to the additional mechanisms outlined by the Council Chair.
50. In our view, the governance structure's inclusion of working parties as described by the Chair, and support for councillors covering geographically large and/or isolated constituencies, are key to ensuring effective representation. We consider it would be appropriate for the current Council to develop a clear set of recommendations in this regard for the incoming Council.



51. We have some reservations on the Council's review process. In addition to a focus on effective decision-making rather than effective representation, the Council appears to have considered the number of members as the key factor underpinning the review. We take this opportunity to highlight that it is communities of interest rather than a preferred number of councillors that should form the basis on which fair and effective representation is considered. We strongly recommend that the Council's next review includes a clear demonstration that this is the approach it has taken.

### **Commission's determination<sup>1</sup>**

52. 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 8 October 2022, the following representation arrangements will apply:
- a. Northland Region, as delineated on Plan LG-01-2022-Con-1, will be divided into eight constituencies.
  - b. Those eight constituencies will be:
    - (i) the Te Raki Māori Constituency, comprising the area delineated on Plan LG-01-2022-Con-2
    - (ii) the Far North General Constituency, comprising the area delineated on Plan LG-01-2022-Con-3
    - (iii) the Bay of Islands-Whangaroa General Constituency, comprising the area delineated on Plan LG-01-2022-Con-4
    - (iv) the Kaipara General Constituency, comprising the area delineated on Plan LG-01-2022-Con-5
    - (v) the Mid North General Constituency, comprising the area delineated on Plan LG-01-2022-Con-6
    - (vi) the Coastal Central General Constituency, comprising the area delineated on Plan LG-01-2022-Con-7
    - (vii) the Whangārei Central General Constituency, comprising the area delineated on Plan LG-01-2022-Con-8
    - (viii) the Coastal South General Constituency, comprising the area delineated on Plan LG-01-2022-Con-9
  - c. The Council will comprise nine councillors elected as follows:
    - (i) 2 councillors elected by the electors of the Te Raki Māori Constituency
    - (ii) 1 councillor elected by the electors of the Far North General Constituency
    - (iii) 1 councillor elected by the electors of the Bay of Islands-Whangaroa General Constituency

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<sup>1</sup> All plans referred to in this determination are deposited with the Local Government Commission.

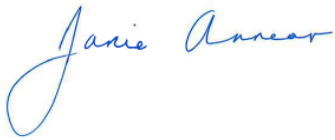
- (iv) 1 councillor elected by the electors of the Kaipara General Constituency
- (v) 1 councillor elected by the electors of the Mid North General Constituency
- (vi) 1 councillor elected by the electors of the Coastal Central General Constituency
- (vii) 1 councillor elected by the electors of the Whangārei Central General Constituency
- (viii) 1 councillor elected by the electors of the Coastal South General Constituency

53. 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.

### **Local Government Commission**



Commissioner Brendan Duffy (Chair)



Commissioner Janie Annear



Commissioner Bonita Bigham

8 April 2022