



Determination

of representation arrangements to apply for
the election of the Hawke's Bay Regional Council
to be held on 12 October 2019

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 Hawke's Bay Regional Council (the council) last reviewed its representation arrangements prior to the 2013 local authority elections. Accordingly it was required to undertake a review prior to the next elections in October 2019.
3. As a result of appeals/objections on its last review, the representation arrangements that applied for the 2013 and subsequent 2016 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
Ngaruroro	19,905	1	19,905	+2,653	+15.38
Napier	57,780	3	19,260	+2,008	+11.64
Hastings	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 were based on 2011 population estimates though the Ngaruroro and Hastings constituencies were calculated on 2006 meshblock totals and as a result the constituency populations do not sum exactly to the total.

4. At a meeting on 25 July 2018 the council, under section 19I of the Act, resolved its initial representation proposal in its latest review. The proposal was for the retention of status quo representation arrangements subject to the transfer of four meshblocks from the Ngaruroro Constituency to the Hastings Constituency to reflect residential development on the outskirts of the Hastings urban area. This resulted in proposed arrangements as set out 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	8,220	1	8,220	-10,010	-54.91
Ngaruroro	20,850	1	20,850	+2,620	+14.37
Napier	62,000	3	20,667	+2,437	+13.37
Hastings	59,150	3	19,717	+1,487	+8.16
Central Hawke's Bay	13,850	1	13,850	-4,380	-24.03
Total	164,070	9	18,230		

* These figures are 2017 population estimates with an adjustment reflecting the transfer of four meshblocks from the Ngaruroro Constituency to the Hastings Constituency.

5. The council notified its initial proposal on 4 August 2018. In doing so it acknowledged that four of the five proposed constituencies were outside the statutory +/-10% fair representation requirement.
6. The council received one submission by the deadline of 17 September 2018. This submission, from Central Hawke's Bay District Council, supported the retention of the Central Hawke's Bay Constituency and for the council to seek an exemption from the fair representation requirement.
7. As the only submission was in support of the initial proposal, that proposal then became the council's final proposal.
8. In notifying the proposal the council advised, given the non-compliance with the fair representation requirement, the proposal was subject to final determination by the Local Government Commission. Accordingly the proposal was referred to the Commission under section 19V(4) of the Act.

Matters for determination by the Commission

9. Section 19V(3)(b) of the Act makes it clear that if a regional council 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 fair representation requirement (the '+/-10% rule'). Section 19V(4) then provides that in such a case, the regional council must refer its decision to the Commission for determination.
10. Section 19V(6) provides that on receiving a reference under subsection (4), the Commission must determine whether to:
 - a. uphold the decision of the regional council, or
 - b. alter that decision.
11. Accordingly, the matters for determination by the Commission are limited to the council's decision to retain the current Wairoa, Ngaruroro, Napier and Central Hawke's Bay constituencies with their current membership, despite these constituencies not complying with the '+/-10% rule'. It is noted, however, that if the Commission does not uphold the council's decision, alteration of that decision may impact on the other constituency arrangements.

Key considerations

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

Communities of interest

13. We note regions must be divided into constituencies for electoral purposes (section 19E of the Act). For the purposes of effective representation of communities of interest, section 19U requires constituency boundaries, so far as is practicable, to coincide with territorial authority boundaries or with territorial authority ward boundaries.
14. 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.
15. In the case of Hawke's Bay Region, three constituencies (Wairoa, Napier and Central Hawke's Bay) mirror territorial authority boundaries with the other two (Ngaruroro and Hastings) largely reflecting Hastings District ward boundaries¹ along with parts of Taupo and Rangitikei districts also in Hawke's Bay Region. Accordingly the current regional constituencies, as groupings of sub-regional communities of interest, can be seen as largely coinciding with territorial authority communities of interest.

Effective representation of communities of interest

16. 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 to the extent possible:
 - 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.
17. The Hawke's Bay Region has been divided into either four or five constituencies, reflecting territorial authority/ward boundaries, since its constitution in 1989. It has comprised nine elected members since 1992. Accordingly these arrangements are now well established and are familiar to residents.

¹ It is noted that the Hastings-Havelock North Ward of Hastings District is not one continuous area but rather comprises the two separate urban areas of Hastings and Havelock North. The Hastings Constituency of Hawke's Bay Region includes both these urban areas as well as the connecting area and some adjoining areas identified as having commonalities with the urban area.

18. For the 2013 elections, the council initially proposed retention of the three constituencies based on territorial authority boundaries and the division of the then single Hastings Constituency into northern and southern constituencies while retaining the existing nine councillors. Following receipt of submissions, it resolved to retain the existing four constituencies i.e. to retain a single Hastings constituency. On receipt of three appeals/objections, the then Commission determined that there should be five constituencies, the three based on territorial authority districts along with two Hastings constituencies, one urban and one rural.
19. The Commission noted that the appeals/objections were all based on the size of the proposed single Hastings Constituency and the effect this would have on achievement of effective representation. Based on this consideration, it determined that the Hastings Constituency should be divided between its urban (Hastings) and rural (Ngaruroro) areas.
20. In the current review there were no submissions suggesting any arrangements other than the current five constituencies electing nine members, would provide more effective representation for the identified communities of interest.

Fair representation for electors

21. 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 region divided by the total number of elected members (the '+/-10% rule').
22. However, section 19V(3)(b) provides 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 section 19V(2).
23. The council is proposing, for the purposes of effective representation of communities of interest, the Wairoa (-54.91%), Ngaruroro (+14.37%), Napier (+13.37%) and Central Hawke's Bay (-24.03%) constituencies not comply with 'the +/-10% rule'.
24. Accordingly we needed to consider whether closer compliance with the '+/-10% rule' is desirable, possibly at the expense of effective representation of communities of interest.
25. In relation to the Wairoa Constituency, we note this constituency has been well outside the '+/-10% rule' since the introduction of this requirement in 2004 and has twice been endorsed by the Commission. In its most recent determination in 2013, the Commission agreed that a separate Wairoa Constituency is necessary to ensure effective representation of this community of interest. This was based on arguments that:
 - a. 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
 - b. 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

- c. 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 per cent of the land area of the region) with few commonalities of interest and still eligible for only one councillor
 - d. effective representation would be compromised in terms of both access to a councillor and representation of the diversity of the constituency
 - e. the demands on a councillor servicing an enlarged area would be unreasonable.
26. As noted, the wording of section 19V(3)(b) is such that once the Commission agrees that effectiveness of representation requires non-compliance with the '+/-10% rule' in a particular constituency, then *generally* "constituencies may be defined and membership distributed between them in a way that does not comply" with this rule. Accordingly the other Hawke's Bay constituencies can technically also not comply with the '+/-10% rule'. However, the overriding 'fair and effective representation' principle of the Act does still apply.
27. In 2013 the Commission also determined that the Central Hawke's Bay Constituency would not comply with the '+/-10% rule'. It noted that in 2007 the Commission had heard from the council that "the arguments were not strong for an exception to the +/-10% rule" and as a result it added some areas of Hastings District to this constituency in order that it did comply. In 2013, however, the Commission heard that this adjustment had caused confusion for residents living relatively close to the Hastings urban area but who were now located in the Central Hawke's Bay Constituency an area with which they had few connections. The Commission was also advised that the area of the proposed constituency, based solely on Central Hawke's Bay District, was already a significantly large area for one councillor to service with its own issues of concern.
28. As a result, the then Commission was satisfied, on the basis of the arguments put to it, 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 '+/-10% rule'.
29. In relation to the proposed Napier Constituency, the Commission in 2013 again noted the considerations of the previous Commission in 2007. These included:
- "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 (now Ngaruroro). We also note that the neighbouring parts of ... (this constituency) 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."

30. The situation remained very similar at the 2013 review in terms of the numbers needing to be transferred out of Napier Constituency in order to comply with the '+/-10% rule'. Accordingly the Commission also endorsed the council proposal in relation to this constituency.
31. Finally, in relation to the proposed Ngaruroro Constituency this also does not comply with the '+/-10% rule'. As noted, this constituency was established to distinguish the distinct rural nature of the area, including areas of Taupo and Rangitikei districts included in Hawke's Bay Region, compared to the neighbouring urban areas of Napier and Hastings.
32. In its current review the council is proposing the transfer of four meshblocks (1465506, 1465601, 4005287, 4005288) from the Ngaruroro Constituency to the Hastings Constituency to reflect residential development. This further reinforces the rural/urban distinction between these two constituencies. On this basis, the need for effective representation of the large area of Ngaruroro Constituency can be seen to continue to require non-compliance with the '+/10% rule'.
33. In summary, we consider the circumstances of the Wairoa, Ngaruroro, Napier and Central Hawke's Bay constituencies can be seen to be very similar to those applying at the time of the council's last review in 2013, subject only to some small boundary adjustments between the Hastings and Ngaruroro constituencies.
34. We note that the council did consider the option of increasing the number of councillors from nine to eleven. This resulted in the Napier and Central Hawke's Bay constituencies complying with the '+/-10% rule' but the large Ngaruroro Constituency would then be significantly under-represented.
35. In conclusion, we consider existing arrangements do provide an appropriate balance between the requirements for both fair and effective representation. On this basis we have decided to uphold the decision of the council for the four identified constituencies not to comply with the '+/-10% rule'.

Commission's determination

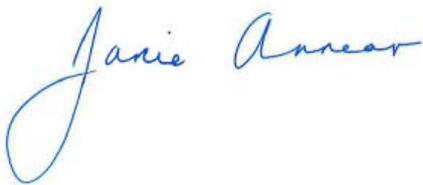
36. Under section 19R of the Local Electoral Act 2001, the Commission upholds the decision of the Hawke's Bay Regional Council not to comply with the section 19V(2) +/-10% fair representation requirement in respect of the Wairoa, Ngaruroro, Napier and Central Hawke's Bay constituencies, as non-compliance is required for effective representation of communities of interest within these constituencies.
37. Accordingly for the triennial Hawke's Bay Regional Council elections to be held on 12 October 2019, there will continue to be Wairoa, Ngaruroro, Napier and Central Hawke's Bay constituencies, subject to the transfer of four meshblocks (1465506, 1465601, 4005287, 4005288) from Ngaruroro Constituency to Hastings Constituency, electing one, one, three and one councillors respectively.
38. Therefore for those elections for the Hawke's Bay Regional Council, covering the area delineated on LG-06-2019-Con-1, the following arrangements will apply:
 - a. Wairoa Constituency, comprising the area delineated on SO 9853, electing one councillor
 - b. Ngaruroro Constituency, comprising the area delineated on LG-06-2019-Con-2 electing one councillor

- c. Napier Constituency, comprising the area delineated on SO 9855, electing three councillors
- d. Hastings Constituency, comprising the area delineated on LG-06-2019-Con-3, electing three councillors
- e. Central Hawke's Bay Constituency, comprising the area on LG-06-2013-Con-4, electing one councillor.

Local Government Commission

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Commissioner Pita Paraone (Chairperson)

A handwritten signature in blue ink, appearing to read 'Janie Annear', with a large, stylized initial 'J'.

Commissioner Janie Annear

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Commissioner Brendan Duffy

19 December 2018