



Determination

of representation arrangements to apply for the election of the
Hawke's Bay Regional Council to be held on 8 October 2022

Background

1. All regional councils are required under sections 19 I of the Local Electoral Act 2001 (the Act) to review their representation arrangements at least every six years. Representation 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 2019 local authority elections. In May 2021 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 Council's representation in 2018 ahead of the 2019 elections. The council's current representation arrangements have been in place since and comprise nine councillors elected as follows:

Constituency	Electoral population*	Number of councillors	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Central Hawke's Bay	13,968	1	13,968	-4,324	-23.64%
Napier	61,602	3	20,534	+2,242	+12.26%
Wairoa	8,178	1	8,178	-10,114	-55.29%
Hastings	59,505	3	19,835	+1,543	+8.44%
Ngaruroro	21,378	1	21,378	+3,086	+16.87%
Total	164,631	9	18,292		

*Based on Tatauranga Aotearoa Stats NZ 2018 electoral population data

Current review: Council process and proposal

4. On 25 August 2021 the Council resolved as its initial representation proposal a council comprising 9 members elected from two Māori constituencies and five general constituencies.
5. The initial proposed representation arrangements were as follows:

Constituency	Electoral population*	Number of councillors	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Mohaka-Wairoa General	5,691	1	5,691	-9,505	-62.55%
Ahuriri-Napier General	53,940	3	17,980	+2,784	+18.32%
Heretaunga-Hastings General	47,928	3	15,976	+780	+5.14%
Ngaruroro General	17,271	1	17,271	+2,075	+13.65%
Tamatea-Central Hawke's Bay General	11,955	1	11,955	-3,241	-21.33%
Total general	136,761	9	15,195		
Māui ki te Raki Māori	12,519	1	12,519	-1,494	-10.66%
Māui ki te Tonga Maori	15,507	1	15,507	+1,494	+10.66%
Total Māori	28,026	2	14,013		
Total region	164,787	11			

*Based on 2018 Census data

6. The Council received 36 submissions on its initial proposal. Of these, 25 supported the proposal, in part or in full. Fifteen other submissions were rejected, as outside the scope of the representation review process.
7. Sixteen submissions sought changes to various elements of the proposal:
 - a. Size of Council – retain the total of 9 councillors; 1 additional Napier councillor
 - b. General Constituency names – opposition to inclusion of Māori names
 - c. Wairoa Constituency – opposition to extending the boundary south to include Tūtira and Esk Valley
 - d. Suggestion of 3 Māori constituencies.
8. Having considered all submissions, the Council decided the following:
 - a. The Council rejected submissions asking to retain the total number of councillors at 9. The Council considered that 11 councillors provide effective and fair representation for the identified communities of interest and electors.

- b. The Council rejected the submission requesting one additional councillor for the Napier Constituency. Because it is contained within a compact geographical area the Council considers adequate constituent representation is provided for the Napier Constituency by 3 councillors.
 - c. The Council disagreed with submissions asking to retain English-only constituency names, supporting the inclusion of Te Reo Māori in the general constituency names. The increased use of Te Reo Māori as an official language of Aotearoa New Zealand is positive and Council considers its use promotes partnership with Māori, irrespective of which electoral roll voters choose.
 - d. The Council accepted the submission to retain the 2019 Wairoa Constituency boundary and opposed to extending the boundary south to include the Esk Valley and Tūtira. The Council considered that a separate Wairoa Constituency to represent this community of interest, distinct from the rest of the region both physically and socio-economically, is justified.
 - e. The Council rejected the submission for 3 Māori constituencies for the region. The number of Māori constituency councillors is set by a formula stipulated in the Local Electoral Act 2001. Based on the Māori electoral population and total electoral population, Hawke's Bay Regional Council is able to elect only two Māori constituency councillors from a council of 11 members.
9. As a result, the Council amended its initial proposal to the following final proposal for the 2022 local elections:

Constituency	Electoral population*	Number of councillors	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Tamatea-Central Hawke's Bay General	11,940	1	11,940	-3,238	-21.34%
Ahuriri-Napier General	53,829	3	17,943	2,765	+18.21%
Wairoa General	4,260	1	4,260	-10,918	-71.93%
Heretaunga-Hastings General	47,874	3	15,958	780	+5.14%
Ngaruroro General	18,702	1	18,702	3,524	+23.22%
Total general	136,605	9	15,178		
Māui ki te Raki Māori	12,519	1	12,519	-1,494	-10.66%
Māui ki te Tonga Maori	15,507	1	15,507	1,494	+10.66%
Total Māori	28,026	2	14,013		
Total region	164,631	11			

*Based on 2018 Census data

10. The Council publicly notified its final proposal, including advice that six of its seven constituencies did not comply with the fair representation criteria.

11. Given the non-compliance of the proposed constituencies, the Council was required under section 19V(4) of the Act to refer its proposal to the Commission for determination. In addition, one objection against the proposal was received.

Objection against the council's final proposal

12. One objection was received on the Council's final proposal was considered valid under the legislation. It opposes the language order of the names of the three general constituencies that include both Te Reo Māori and English, arguing that the English language portion should come first.
13. The Council referred the objection to the Commission, in accordance with section 19Q of the Act.

Need for a hearing

14. For the purpose of making a determination, the Commission may make such enquiries as it considers appropriate and may hold meetings with the interested parties. There is no obligation on the Commission to hold a hearing and the need for a hearing is determined by the information provided by the parties and as a result of any further inquiries the Commission may wish to make.
15. In the case of Hawke's Bay Regional Council's final proposal, the Commission considered there was sufficient information in the documentation provided by the Council on the process it had followed in making its decision and in the objection for the Commission to proceed to a determination. Accordingly, it was decided no hearing was required.

Matters for determination by the Commission

16. 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.
17. 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

18. Based on the legislative requirements, the Commission's *Guidelines for local authorities undertaking representation reviews* (the Guidelines) 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

19. The 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.
20. 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. 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.
21. The Council has described its communities of interest as contained with constituencies as follows:

Māui ki te Raki Māori Constituency	The constituency boundary will be the area which encompasses the Wairoa District Council and Napier City Council areas, parts of the Hastings District Council area north of the Ngaruroro River, as well as meshblocks in the regional boundary belonging to Taupō District Council
Māui ki te Tonga Māori Constituency	The constituency boundary will be the area which encompasses the Central Hawke's Bay District Council area, parts of the Hastings District Council area south of the Ngaruroro River, as well as meshblocks in the regional boundary belonging to Rangitikei District Council
Wairoa	being the same as that for the Wairoa District Council area
Ahuriri-Napier General Constituency	Being the same as that for the Napier City Council area
Heretaunga-Hastings General Constituency	Being that area which encompasses the wards of Flaxmere, Hastings-Havelock North and most of Heretaunga within the Hastings District Council area
Ngaruroro General Constituency	Being that area which encompasses the Kahuranaki and Mohaka wards and part of the Heretaunga ward within the Hastings District Council area as well as meshblocks belonging to Rangitikei District and Taupō District councils
Tamatea-Central Hawke's Bay	The area being the same as that for the Central Hawke's Bay District Council

22. Concurrently with this review, the Hastings District Council has also undertaken a representation review, resulting in a small number of meshblocks being moved out of the Hastings District Council wards that its Rural Community Board is aligned to.
23. This has resulted in the boundaries of the Ngaruroro and Heretaunga/Hastings constituencies becoming out of alignment with Ward boundaries. Therefore we have decided to move the constituency boundaries so that they remain aligned with ward boundaries.
24. The following table outlines the movement of the meshblocks:

Meshblock	Populations*	Current constituency	Moved to
1462901	117	Ngaruroro General	Heretaunga-Hastings General
1462902	27		
1470209	36		
1470211	9		
(Ngātarawa Rd/ SH 50/ Maraekākaho Rd Triangle)	Tot = 189		
1408402	45	Ngaruroro General	Heretaunga-Hastings General
1409100	75		
(Ōmāhu Village)	Tot= 120		

*Based on 2018 Census data

25. For a regional council, the environmental aspects for which it is responsible are closely tied to a physical landscape that, in non-urban areas, changes relatively slowly unless there are significant land use changes. In the regional council context, a key factor in identifying communities of interest is the environmental issues specific to particular areas and the communities living there. It is therefore unsurprising that the identified communities of interest in the Hawkes Bay Region have changed very little since the 2013 determination, aside from small boundary alterations to align constituencies with Ward boundaries.
26. We agree with the Council's analysis and that, broadly speaking, these appear be logical groupings of communities of interest. We note that there are no appeals or objections suggesting otherwise.
27. We further note that the statistics used by the Council are the 2018 electoral population data. This is a valid basis for councils to use in undertaking their reviews and has been used consistently by the Council throughout its review process. That said, for assurance purposes we have used the latest available Stats NZ Tatauranga Aotearoa 2020 estimated electoral population figures to consider our determination. The updated estimates and the meshblock movements discussed above result in the following:

Constituency	Electoral population*	Number of councillors	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Wairoa General	4,650	1	4,650	-11,639	-71.45%
Ahuriri-Napier General	57,400	3	19,133	+2,844	+17.46%
Heretaunga-Hastings General	52,000	3	17,333	1,044	+6.41%
Ngaruroro General	19,700	1	19,700	+3,411	+20.94%
Tamatea-Central Hawke's Bay General	12,850	1	12,850	-3,439	-21.11%
Totals for GEP	146,600	9	Avg 16,289		
Māui ki te Raki Māori	14,350	1	14,350	-1,725	-10.73%
Māui ki te Tonga Maori	17,800	1	17,800	+1,725	+10.73%
Totals for MEP	32,150	2	Avg 16,075		
Total	178,750	11			

*Based on Tatauranga Aotearoa Stats NZ 2020 electoral population estimates

Effective representation of communities of interest

28. '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.
29. The Guidelines suggest that councils 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.
30. Section 19D of the Act provides that regional councils shall consist of between six and 14 members. 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.

31. There is some further discussion of number of councillors below in considering its impact on fair representation.

Fair representation for electors

32. 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').
33. 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 section 19V(2).
34. The Council's proposed arrangements retain the current general constituency boundaries and number of councillors (nine) to be elected from each general constituency. It also adds two Māori constituencies, each electing one councillor. This results in six of the seven constituencies being non-compliant with the '+/-10% rule'.
35. Both Māori constituencies are non-compliant with the '+/- 10%' rule by a very small margin, Māui ki te Raki Māori at -10.73% and Māui ki te Tonga Māori at +10.73%. However, the boundary between the two constituencies formed by the Ngaruroro Rivers is as requested by tāngata whenua due to its cultural relevance and being how iwi and hapū traditionally set boundaries.
36. The non-compliance equates to 118 people short of being within the range of population each member represents. In the case of Māori constituencies compliance with the '+/-10% rule' is subject to having regard to communities of interest and iwi affiliations (see clause 6, Schedule 1A of the Act).¹
37. The Commission has endorsed non-compliant constituencies in its last three determinations. A comparison of changes in the compliance of the City's general constituencies since 2013 is provided in the table below:

Hawke's Bay General Constituencies	% deviation from region average population per councillor		
	2013	2019	2022
Tamatea/Central Hawke's Bay	-22.15%	-24.03%	-21.11%
Ahuriri/Napier	+11.64%	+13.37%	+17.46%
Wairoa	-51.14%	-54.91%	-71.45%
Heretaunga/Hastings	+7.44%	+8.16%	+6.41%
Ngaruroro	+15.38%	+14.47%	+20.94%

¹ This is in addition to the grounds for non-compliance set out in section 19V(3) of the Act.

38. The current review has seen some of the deviations increase and others decrease. These changes are due mainly to the separation of the general electoral population (GEP) and Māori electoral population (MEP) following the Council's decision to establish Māori constituencies.
39. For the current review, the Council considered six options as part of forming its initial proposal, as follows:
- status quo for general constituencies and a Council membership of 9
 - status quo for general constituencies and a Council membership of 11
 - Extended Wairoa General Constituency and a Council membership of 9 (two variations)
 - Extended Wairoa General Constituency and a Council membership of 11 (two variations)
40. Options for an 11-member council were provided in an effort to reduce the degree of non-compliance for all of the general constituencies, noting that this reduced the proportionality of Māori representation. These options reduce the non-compliance for Wairoa slightly and for the under-represented constituencies more significantly.
41. Options to extend the Wairoa General Constituency were provided in an effort to increase the Wairoa population to a sufficient number that the non-compliance for that constituency would be reduced. This involved moving the Wairoa boundary southward to take GEP from Ngaruroro General Constituency to bring the representation ratio for Wairoa closer to the +/-10% threshold, while also attempting to retain a semblance of community of interest identity.
42. The Council adopted as its initial proposal, an 11-member council with a new Mohaka-Wairoa General Constituency that extended the current Wairoa General Constituency boundary south to the Napier-Taupō Highway, to include meshblocks in the Tūtira and Esk Valley. Under the initial proposal, four of the five general constituencies were non-compliant with the '+/- 10%' rule.
43. Following receipt of submissions to its initial proposal and on the basis that its initial option was not considered to ensure effective representation for clearly identified communities of interest, the Council reverted to the existing constituency boundaries for its general constituencies for its final proposal.
44. While there does not seem to be sufficient justification for altering boundaries, the option for increasing the number of councillors in under-represented general constituencies should be considered. The maximum possible number of general constituency councillors for Hawke's Bay Regional Council is 11. As Wairoa is already over-represented with one member, the only option is to address under-representation in other general constituencies by adding more members.
45. Options for 10 and 11 general constituency members produce different non-compliances across the general constituencies, increasing them in some constituencies and decreasing them in others. These options also do not result in a significant reduction in the degree of non-compliance for the Wairoa General Constituency. It also reduces the proportionality of Māori representation, something the Council has attempted to preserve as much as possible in its final proposal.

46. For these reasons, it is considered that there is little benefit in increasing the number of general constituency councillors as it does not result in an overall improvement in compliance with the '+/- 10%' rule across the region.
47. 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 constituencies can technically also not comply with the '+/- 10% rule'. However, the overriding 'fair and effective representation' principle of the Act does still apply.
48. The Council provided the following reasons for the non-compliance of its general constituencies with the '+/-10% rule':

Tamatea-Central Hawke's Bay (-21.11%)	The Council considers that achieving compliance would limit effective representation, requiring the grouping together of communities of interest with few commonalities across an extensive area. The constituency boundary coinciding with Central Hawke's Bay District Council territorial authority represents an area that electors closely identify with and is a large area for 1 councillor to service given the long distances to travel throughout the area. The physical realities of the area give rise to specific issues of concern, such as water security, pressure on coastal development, biodiversity protection, and natural hazards.
Ahuriri-Napier General Constituency (+17.46%)	Achieving compliance would require grouping together communities of interest with few commonalities which, given the numbers involved (2,765) and the predominantly urban nature of the Napier Constituency, would involve a large segment of the rural Ngaruroro Constituency area surrounding Napier City. The Napier City Council boundary reflects a community of interest based on the delivery of a wide range of day-to-day services, which in turn encourages participation in local government.
Ngaruroro General Constituency (+20.94%)	The Council considers that to achieve the population decrease needed would limit effective representation as it would require further splitting this mostly rural community of interest, which shares the Hastings District Council's rural community board area.
Wairoa (-71.45%)	The Council considers that achieving compliance would limit effective representation for several communities of interest isolated from each other across geographically challenging landscapes and require the grouping together of communities of interest with few commonalities across an extensive area. The constituency area is the same as the Wairoa District Council which reflects an area distinct from the rest of the region both physically and socio-economically. The physical realities of the area give rise to specific issues not experienced elsewhere including limited transport connections, and present particular challenges for community consultation and provision of services.

	The Wairoa district makes up 29% of Hawke’s Bay’s total land mass and is a significantly large area for 1 councillor to service.
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49. In summary, we consider the circumstances of the Wairoa, Ngaruroro, Ahuriri/Napier and Tamatea/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 2019, acknowledging the adjustments required by the establishment of Māori constituencies.
50. In conclusion, we consider the proposed 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’.

Names of constituencies

51. As noted above the sole objection received on the Council’s final proposal opposes the language order of the names of the three general constituencies that include both Te Reo Māori and English, arguing that the English language portion should come first.
52. It can be observed that the ordering used by the Council is reasonably standard in ward, constituency and place names that include both of Aotearoa New Zealand’s written official languages.
53. We therefore reject the objection and uphold the constituency names proposed by the Council.

Commission’s determination ²

54. 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 8 October 2022, the following representation arrangements will apply:
 - a. Hawke’s Bay Region, as delineated on Plan LG-006-2019-Con-1, will be divided into seven constituencies.
 - b. Those seven constituencies will be:
 - (i) Māui ki te Raki Māori Constituency, comprising the area delineated on LG-006-2022-Con-1, electing one councillor
 - (ii) Māui ki te Tonga Māori Constituency, comprising the area delineated on LG-006-2022-Con-2, electing one councillor
 - (iii) Wairoa General Constituency, comprising the area delineated on SO 9853, electing one councillor
 - (iv) Ngaruroro General Constituency, comprising the area delineated on LG-006-2022-Con-3, electing one councillor

² Plan references preceded by SO are deposited with Land Information New Zealand, and plan references preceded by LG are deposited with the Local Government Commission.

- (v) Ahuriri/Napier General Constituency, comprising the area delineated on SO 9855, electing three councillors
- (vi) Heretaunaga/Hastings General Constituency, comprising the area delineated on LG-006-2022-Con-4, electing three councillors
- (vii) Tamatea/Central Hawke's Bay General Constituency, comprising the area on LG-006-2013-Con-4, electing one councillor.

55. 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.

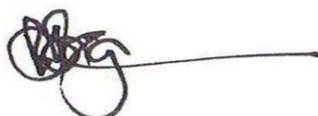
Local Government Commission



Commissioner Brendan Duffy (Chair)



Commissioner Janie Annear



Commissioner Bonita Bigham



Commissioner Sue Piper

6 April 2022