



LOCAL GOVERNMENT COMMISSION
MANA KĀWANATANGA Ā ROHE

Determination

of representation arrangements to apply for
the election of the Otago 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 Otago 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 being lodged the Commission determined the Council's representation arrangements for the 2007 elections. These arrangements also applied for the 2010 elections and were for 11 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
Dunstan	47,100	2	23,550	+4,473	+23.45
Moeraki	19,250	1	19,250	+173	+0.91
Molyneux	35,000	2	17,500	-1,577	-8.27
Dunedin	108,500	6	18,083	-994	-5.21
Total	209,850	11	19,077		

* These are updated 2011 population estimates. At the time of the 2007 review each of the constituencies complied with the section 19V '+/-10% fair representation requirement'.

3. On 19 June 2012 the Council resolved its initial proposed representation arrangements to apply for the 2013 elections. These were publicly notified on 21 June 2012.
4. In reviewing its representation arrangements the Council considered a number of options in the knowledge that, using 2011 population estimates, the current

arrangements no longer complied with the +/-10% fair representation requirement of section 19V of the Act. A significant increase in the population of the Dunstan Constituency (which includes Central Otago District and Queenstown-Lakes District) had put that constituency outside the +/-10% range.

5. The option chosen by the Council was to retain the current constituencies but increase the membership of the Dunstan Constituency from 2 to 3. The arrangements were therefore as follows.

Constituency	Population*	Number of councillors per constituency	Population per councillor	Deviation from region average population per councillor	% deviation from region population per councillor
Dunstan	47,100	3	15,700	-1,788	-10.22
Moeraki	19,250	1	19,250	+1,763	+10.08
Molyneux	35,000	2	17,500	+13	+0.07
Dunedin	108,500	6	18,083	+596	+3.41
Total	209,850	12	17,488		

* 2011 population estimates

6. As can be seen, this results in the Dunstan and Moeraki Constituencies falling slightly outside the +/-10% range. The Council's public notice of its proposal stated, in respect of this, that -

"Having given consideration to communities of interest and effective representation, this is considered the best option available to meet the needs of the communities of the Otago region."

7. The Council received five submissions on its proposal. Two, from the Waitaki District Council and Federated Farmers, supported the proposal. One submission was unclear as to what its position was. The remaining two submissions sought the splitting of constituencies as follows -

- the Queenstown-Lakes District Council sought the division of the Dunstan Constituency into a Wakatipu Constituency comprising the Queenstown-Wakatipu Ward of Queenstown-Lakes District, and a smaller Dunstan Constituency comprising Central Otago District and the Arrowtown and Wanaka Wards of Queenstown-Lakes District. An unusual feature of this proposal was that, although the Arrowtown Ward is completely surrounded by the Queenstown-Wakatipu Ward, it would be included in the Dunstan Constituency (to ensure that a Wakatipu Constituency would comply with the +/-10% rule)
- the Clutha District Council sought the division of the Molyneux Constituency into a Clutha Constituency comprising Clutha District and a Mosgiel-Taieri Constituency comprising the Mosgiel-Taieri Ward of Dunedin City.

8. The Council rejected the two latter submissions and confirmed its initial proposal as its final proposal. In doing this it gave the following reasons -

- *splitting the Dunstan Constituency into two areas (is) rejected for the reasons that to separate Arrowtown from Queenstown does not meet the community of interest requirements, and that the remaining Dunstan Constituency would not meet the population ratios in the legislation (its ratio being -12.58%)*

- *splitting the Molyneux Constituency (is) rejected for the reasons that there are significant communities of interest with the two areas of Clutha and Mosgiel/Taieri, and for the effectiveness of dual representation.*

9. The Council received no appeals against its final proposal. However, as the population to member ratios of the Dunstan and Moeraki Constituencies did not comply with the requirements of section 19V(2) of the Act, the Council was required by section 19V(4) of the Act to refer its proposal to the Commission for determination. The Commission was required to consider the proposal as if it were subject to an appeal.

Requirements for determination

10. Statutory provisions relating to the determination of appeals on regional council representation proposals are contained in sections 19R and 19I of the Act.

19R. Commission to determine appeals and objections

- (1) *The Commission must—*
- (a) *Consider the resolutions, submissions, appeals, objections, and information forwarded to it under section 19Q; and*
 - (b) *Subject to sections 19T and 19V in the case of a territorial authority, and to sections 19U and 19V in the case of a regional council, determine,—*
 - (i) *In the case of a territorial authority that has made a resolution under section 19H, the matters specified in that section:*
 - (ii) *In the case of a regional council that has made a resolution under section 19I, the matters specified in that section:*
 - (iii) *In the case of a territorial authority that has made a resolution under section 19J, the matters specified in that section.*
- (2) *For the purposes of making a determination under subsection (1)(b), the Commission—*
- (a) *May make any enquiries that it considers appropriate; and*
 - (b) *May hold, but is not obliged to hold, meetings with the territorial authority or regional council or any persons who have lodged an appeal or objection and have indicated a desire to be heard by the Commission in relation to that appeal or objection.*
- (3) *The Commission must, before 11 April in the year of a triennial general election, complete the duties it is required to carry out under subsection (1).*

19I. Review of representation arrangements for elections of regional councils

- (1) *A regional council must determine by resolution, and in accordance with this Part,—*
- (a) *the proposed number of constituencies; and*
 - (b) *the proposed name and the proposed boundaries of each constituency; and*
 - (c) *the number of members proposed to be elected by the electors of each constituency.*
- (2) *The determination required by section (1) must be made by the regional council,—*
- (a) *on the first occasion, either in 2003 or in 2006, and*
 - (b) *subsequently, at least once in every period of 6 years after the first determination.*
- (3) *This section must be read in conjunction with section 19ZH and Schedule 1A.*

11. Section 19V(3)(b) of the Act provides that if a regional council considers that effective representation so requires, constituencies may be defined and membership distributed between them in a way that does not comply with the +/-10% requirement of section 19V(2). Where a regional council has made such a decision, section 19V goes on to provides as follows -
- (4) *A regional council that decides under subsection (3)(b) not to comply with subsection (2) must refer that decision to the Commission together with the information specified in section 19Q(a) to (e).*
 - (5) *A reference under subsection (4) must be treated as if it were an appeal against the decision of the regional council, for the purposes of sections 19R (other than subsection (1)(b)), 19S, and 19Y, which apply with any necessary modifications.*
 - (6) *On receiving a reference under subsection (4), the Commission must determine, under section 19R(1), whether—*
 - (a) to uphold the decision of the regional council; or*
 - (b) to alter that decision.*
12. 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

13. 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

14. 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.
15. The Commission considers that constituencies should be based on distinct and recognisable communities of interest reflecting these dimensions.
16. In the Otago Region the constituencies are based on the following communities of interest –
- Dunstan Constituency – the communities of interest identified by the Central Otago and Queenstown-Lakes Districts

- Moeraki Constituency – the communities of interest identified by that part of Waitaki District in the Otago Region
- Molyneux Constituency – the communities of interest identified by Clutha District and the Mosgiel-Taieri Ward of Dunedin City
- Dunedin Constituency – the Dunedin urban area and the Waikouaiti-Chalmers Ward.

17. The boundaries of the constituencies are generally marked by strong geographic features – ranges of hills or mountains.

Effective representation of communities of interest

18. 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.

19. 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. The options considered by the Council did involve a range of numbers of members.

20. 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 or ward boundaries may provide this in some cases.

21. Since 1998, the Otago Region has been divided into the same four constituencies, the only significant change during that period being the transfer, in 2007, of the former Waikouaiti Coast Ward of Dunedin City from the Moeraki Constituency to the Dunedin Constituency. Prior to 1998 the area of the current Dunedin Constituency had been divided into two constituencies.

22. 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.
23. We consider that the current constituency boundaries continue to provide an appropriate basis for identifying communities of interest in the Otago Region. The constituencies appear to reflect communities of interest and be of such a size that permits reasonable access to elected members.

Fair representation for electors


24. 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').
25. As previously noted, two of the constituencies in the Council's proposal fall outside the +/-10% requirement as follows: the Dunstan Constituency at -10.22% and the Moeraki Constituency at +10.08%.
26. The deviation of both constituencies from +/-10% is negligible. At -10.22% the deviation of the Dunstan Constituency amounts to a population of 115, while that of the Moeraki Constituency at +10.08% is a population of 14.
27. As noted above the Council considered a number of options when carrying out its review. None of the other options identified were more compliant than the option chosen by the Council. Some were significantly less compliant.
28. Some options did involve splitting the Dunstan and Molyneux constituencies, however -
- splitting the Dunstan Constituency resulted in either the new Central Otago Constituency being less compliant at -30.29% or the new Queenstown Constituency being less compliant at -17.94%
 - splitting the Molyneux Constituency had no impact on the overall compliance of constituencies.
29. The only other option available would appear to be to transfer areas between constituencies, e.g. transferring an area from the Dunstan Constituency to the Molyneux Constituency. Doing this, however, would result in dividing communities of interest, a situation that would be exacerbated by the marked physical divides that exist between communities in the region. The small deviations from the +/-10% rule involved do not appear to warrant that course of action.
30. We have therefore decided to uphold the decision of the Council in respect of its representation arrangements.

Commission's Determination

31. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Otago Regional Council to be held on 12 October 2013, the following representation arrangements will apply:

- (1) Otago Region, as delineated on SO Plan 24288 deposited with Land Information New Zealand, will be divided into four constituencies.
 - (2) Those four constituencies will be:
 - (a) the Dunstan Constituency, comprising the area delineated on SO Plan 24251 deposited with Land Information New Zealand
 - (b) the Moeraki Constituency, comprising the area delineated on SO Plan 24250 deposited with Land Information New Zealand
 - (c) the Molyneux Constituency, comprising the area delineated on SO Plan 24252 deposited with Land Information New Zealand
 - (d) the Dunedin Constituency, comprising the area delineated on SO Plan 386309 deposited with Land Information New Zealand.
 - (3) The Council will comprise 12 councillors elected as follows:
 - (a) three councillors elected by the electors of the Dunstan Constituency
 - (b) one councillor elected by the electors of the Moeraki Constituency
 - (c) two councillors elected by the electors of the Molyneux Constituency
 - (d) six councillors elected by the electors of the Dunedin Constituency.
32. 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)

14 December 2012