



LOCAL GOVERNMENT COMMISSION

Determination

of the representation arrangements to apply for
the election of the Auckland Regional Council
to be held on 13 October 2007

Background

1. The Auckland Regional Council (the Council) elected at the 2004 local election comprises 13 councillors. The 13 councillors were elected as follows:

Constituencies	Population*	Number of councillors per constituency	Population per councillor	Deviation from the region average population per councillor	Percentage deviation from the region average population per councillor
Rodney	89,200	1	89,200	-13,661.53	-13.28
North Shore	212,300	2	106,150	+3,288.47	+3.20
Waitakere	192,000	2	96,000	-6,861.53	-6.67
Auckland	425,600	4	106,400	+3,538.47	+3.44
Manukau	332,900	3	110,967	+8,105.47	+7.88
Papakura-Franklin	85,300	1	85,300	-17,561.53	-17.07
TOTAL	1,337,200	13	102,861.53		

*These figures are rounded 2005 population estimates slightly amended by the Government Statistician

2. The Council received an officers' report on representation reviews in early March 2006 and began the review process at a meeting of the Council's regional strategy and planning committee on 15 May 2006. A subsequent officers' report identified a number of conceptual options for the identification of constituencies including district health board boundaries, provincial rugby union boundaries and amalgamation of current constituencies based on territorial authority boundaries, with numbers of councillors varying between 12 and 14. Other options identified included modification of current arrangements and 12-14 one-member constituencies.
3. On 20 July 2006, the Council resolved, under section 191 of the Local Electoral Act 2001 (the Act), to adopt the status quo as its initial representation proposal for the 2007 elections.

4. In notifying its initial proposal, the Council noted that the proposed representation of the Rodney and Papakura-Franklin Constituencies fell outside the stipulated +/-10% range for fair representation. It noted that the Council considered that the existing representation arrangements were the best out of a range of potential options. They also allowed the Council to maintain effective relationships with local councils while ensuring both urban and rural interests are represented in decision-making.
5. The Council received five submissions on its initial proposal with three favouring the proposal and two opposed. Supporters of the proposal generally favoured present arrangements based on territorial authority boundaries that were understood and seen to work well. Those against the proposal made the following points:
 - Rodney requires two councillors given its size and rapid growth; and
 - preference for a four-constituency approach and 13 councillors, with Rodney and North Shore combined, and Manukau and Papakura-Franklin combined, to provide more equal sized constituencies.
6. Following the consideration of submissions, the Council, on 25 September 2006, agreed that its initial proposal be its final proposal with no modifications.
7. In notifying its proposal the Council commented:
 - the weight of submissions suggested support for the Council's proposal;
 - submissions proposing larger geographic and more populous constituencies were not supported by the Council because it believes that this approach would swamp some communities of interest;
 - larger geographic constituencies also constrain elected members' ability to service their constituencies and provide effective representation;
 - the Council considers that the existing representation arrangements are the best out of a range of potential options;
 - the proposal allows the Council to maintain effective relationships with local councils while ensuring both urban and rural interests are represented in Council's decision-making; and
 - the Council also believes that maintaining alignment to local council boundaries facilitates democracy and efficient elections and avoids any voter confusion that would otherwise arise from varying boundaries for different tiers of local government.
8. One appeal was received against the Council's final proposal. The appeal was against the proposal not complying with the fair representation requirements of the Act and proposed a four-constituency model that did comply representing "real communities of interest" (i.e. Rodney/North Shore, Auckland, Waitakere and Manukau/Papakura-Franklin).

Hearing

9. The Commission met with the Council at a hearing held at the Auckland Regional Council on 12 March 2007. The appellant, Bryan Mockbridge from People's Choice Manukau, was unable to attend. The Council was represented by Mike Lee Chairperson, Peter Winder Chief Executive, Bruce

Thomas Group Manager Democracy Services, and Sarah Johnstone Policy Adviser.

Matters raised in appeal and at the hearing

10. The main arguments presented by the Council in support of its proposal were:
- the current constituencies and membership were established by an Act of Parliament in 1992 (the previous Auckland Regional Authority had 26 general seats and two Māori seats);
 - this structure, reflecting territorial authority districts, has been in place since that time;
 - the Council had undertaken a thorough review of options, including the choice of electoral system (i.e. 'first past the post' or 'single transferable voting') and Māori constituencies as well as representation arrangements, and these issues had all been consulted on;
 - the Council had conventions and a culture based on working with the territorial authorities in the region;
 - while the present representation arrangements were not necessarily ideal in terms of effective and fair representation, the Council had opted to stay with the status quo partly in light of current discussions on Auckland regional governance proposals;
 - the possibility of all of Franklin District being included in the Auckland Region had been floated during discussions on Auckland regional governance options, and would make sense in terms of regional functions such as public transport and civil defence;
 - the Council believed that 13 councillors was a sustainable number given the range of decisions, committees and councillor workloads;
 - it also believed, from a governance point of view, that an odd number of councillors was preferable;
 - more councillors rather than fewer councillors was preferable in relation to effective representation; and
 - the proposed small level of over-representation for both the Rodney and Papakura-Franklin Constituencies was acceptable given the distance of these areas from central Auckland and their current levels of population growth.
11. As noted, the main concern of the appellant was that the proposal did not comply with the fair representation requirement (+/-10% rule) and that a four-constituency model combining Rodney and North Shore, and Manukau and Papakura-Franklin would comply with this requirement.

Matters for determination

12. The statutory provisions in respect of appeals and objections 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.

Consideration by the Commission

Effective and fair representation

13. A review of representation arrangements under the Act is to ensure that:
- the number and boundaries of constituencies will provide effective representation of communities of interest within the region (section 19U); and
 - in determining the number of members to be elected by each constituency, electors of that constituency will receive fair representation (section 19V).

14. For the purpose of achieving fair representation, 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 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 Act does not define 'effective representation' or 'communities of interest'.
15. The steps in the process for achieving effective and fair representation are not statutorily prescribed. The Commission believes that the following process for 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 communities of interest; and
 - (c) determine fair representation of electors for the region.

Auckland Region

16. The Council proposed that the region's communities of interest relate primarily to territorial authority areas. This is consistent with section 19U of the Act which provides, among other things, that so far as is practicable, constituency boundaries coincide with the boundaries of one or more territorial authority districts or the boundaries of wards.
17. On this basis, the Council proposed:
 - a Rodney Constituency covering Rodney District;
 - a North Shore Constituency covering North Shore City;
 - a Waitakere Constituency covering Waitakere City;
 - an Auckland Constituency covering Auckland City; and
 - a Papakura-Franklin Constituency covering Papakura District and that part of Franklin District in the Auckland Region.
18. The Council's final proposal does not comply with the fair representation requirement (+/-10% rule) in respect of the Rodney and Papakura-Franklin Constituencies.
19. Subsection 19V(3)(b) of the Act provides that where a regional council or the Commission considers that effective representation of communities of interest so requires, constituencies may be defined and members distributed between them in a way that does not comply with the +/-10% rule. Subsection 19V(4) provides that in these circumstances the regional council must refer the matter to the Commission for determination.
20. We considered the proposed Rodney and Papakura-Franklin Constituencies and their non-compliance with the +/-10% rule, and the appellant's suggestion of combining constituencies which would comply.
21. We acknowledge the Council's efforts to identify options that would comply with the fair representation requirement. These included aligning constituencies with district health board boundaries or with provincial rugby boundaries.

22. On balance we accept the arguments put by the Council in support of its proposal to retain the status quo. In summary, we agree that:
- territorial authority boundaries mean people in the region have already been organised into geographic communities of interest;
 - the different interests of these communities are effectively represented to the Council by the territorial authorities;
 - the Council aimed to respond to this by ensuring its own constituencies mirror territorial authority boundaries as much as possible and using relationships with the territorial authority itself to maintain accountability to the constituency;
 - these relationships can also ensure clarity for regional councillors about who they should engage with at community board level;
 - the alignment to territorial authority boundaries also means clearer understanding by residents about regional constituency representation and radically altering this arrangement may have adverse impacts on voter turnout and confusion on regional accountabilities;
 - altering the current representation arrangements, which are successful and workable, may generate confusion for the general public about the rationale/value of change (i.e. technical compliance with the Act);
 - being the largest and fastest growing region in the country with a current population of approximately 1.4 million residents, in four major cities, the Auckland region has a number of distinct characteristics that present unique challenges for local governance;
 - the Council needs all of its 13 councillors to effectively discharge its responsibilities;
 - the two constituencies which are over-represented in terms of fair representation (Rodney and Papakura-Franklin) are both geographically large, relatively sparsely populated, and represent largely rural areas;
 - the status quo arrangements provide for effective representation of both rural and urban communities in decision-making;
 - the Rodney and Papakura-Franklin Constituencies represent the geographic margins of the region and it is often in these areas that issues arise in relation to application/implementation of policy regarding key infrastructure services, growth and transport; and
 - compliance with statutory requirements would require including at least 7,500 and 5,000 more people in the current Papakura-Franklin and Rodney Constituencies respectively, and this would expand the already large geographic areas the representatives for these constituencies have to cover, requiring longer travel times and restraining their ability to provide effective representation to these communities.
23. We believe that the appellant's suggestion of combined constituencies, while complying with the fair representation requirement, would create unreasonably large constituencies which would mitigate against effective representation of the communities of interest concerned.
24. We therefore determine to uphold the Council's final proposal without alteration. We believe this will provide effective representation of the

communities of interest of the Auckland Region and it provides fair representation of electors to the extent that this does not compromise effective representation of communities.

Commission's Determination

25. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the election of the Auckland Regional Council to be held on 13 October 2007, the following representation arrangements will apply -

(1) The Auckland Region, as delineated on S.O. Plan 70297 deposited with Land Information New Zealand, shall be divided into six constituencies;

(2) Those six constituencies shall be -

(a) the Rodney Constituency, comprising the area delineated on SO Plan 70298 deposited with Land Information New Zealand;

(b) the North Shore Constituency, comprising the area delineated on SO Plan 70299 deposited with Land Information New Zealand;

(c) the Waitakere Constituency, comprising the area delineated on SO Plan 70300 deposited with Land Information New Zealand;

(d) the Auckland Constituency, comprising the area delineated on SO Plan 70301 deposited with Land Information New Zealand;

(e) the Manukau Constituency, comprising the area delineated on SO Plan 70302 deposited with Land Information New Zealand; and

(f) the Papakura-Franklin Constituency, comprising the area delineated on SO Plan 70303 deposited with Land Information New Zealand;

(3) The Auckland Regional Council shall comprise 13 councillors elected as follows -

(a) one councillor shall be elected by the electors of the Rodney Constituency;

(b) two councillors shall be elected by the electors of the North Shore Constituency;

(c) two councillors shall be elected by the electors of the Waitakere Constituency;

(d) four councillors shall be elected by the electors of the Auckland Constituency;

(e) three councillors shall be elected by the electors of the Manukau Constituency; and

(f) one councillor shall be elected by the electors of the Papakura-Franklin Constituency.

26. As required by section 19U(b) of the Local Electoral Act 2001, the boundaries of the above constituencies comply with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes.

FOR THE LOCAL GOVERNMENT COMMISSION

Sue Piper (Chair)

Colin Dale (Temporary Commissioner)

10 April 2007