



LOCAL GOVERNMENT COMMISSION

Determination

of the membership and basis of election for the
general election of the Dunedin City Council to be held
on 13 October 2001

BACKGROUND

1 The Dunedin City Council (hereafter referred to as “the Council”), as required by section 101H of the Local Government Act 1974 (hereafter referred to as “the Act”), considered its membership and the basis of the election of the Council to apply for the general election of the Council to be held in October 2001.

2 The Dunedin City Council elected at the 1998 general election comprises 14 members and the Mayor. The 14 members were elected as follows:

Waikouaiti Coast Ward	1
Taieri Ward	1
Mosgiel Ward	1
Green Island-Saddle Hill Ward	1
South Dunedin Ward	4
Hills Ward	3
Cargill Ward	3

3 Following its review, the Council proposed to retain the existing system of wards and membership.

4 The Council received four objections to its proposal from:

- Alvan S Harris, who proposed the adoption of a central ward, and a boundary adjustment between the Green Island-Saddle Hill and South Dunedin Wards;
 - Chalmers Community Board, which proposed a division of the Cargill Ward into a Leith Ward electing two members and a Chalmers Ward electing one member;
- and

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- Lorraine Hunter and Martin Dillon, who separately proposed the transfer of an area from the Taieri Ward to the Mosgiel Ward.

The Council also received 3 submissions in support of its proposal from:

- Waikouaiti Coast Community Board;
- Betty Downes; and
- Taieri Residents and Ratepayers Association.

- 5 Following consideration of the objections, the Council confirmed its original proposal. The Council's decision was appealed by the Chalmers Community Board.

Preliminary Matter for Determination

- 6 The Commission, on receiving advice of the appeals, resolved that before making a determination of the appeal it would meet with the Council and the appellant if it wished to be heard. The Commission resolved to meet the Council and the appellant in Dunedin on 13 February 2001.

The Hearing

- 7 The Council was represented by the Deputy Mayor (Dame Elizabeth Hanan), the General Manager Strategy and Planning (Graham Spargo) and Governance Support Officer (Pam Jordan). The Chalmers Community Board was represented by Jan Tucker (Chairperson), Andre Mabon, Claire Carey and John Neilson.

The Council: The Deputy Mayor outlined the Council's approach to the triennial review and the rationale for its decisions. Her comments may be summarised as follows:

- extensive changes had been made to the ward system in 1998 and there had been changes at each of the other triennial reviews since 1989;
- there was a desire by the Council and the public to allow a settling down period for the ward system;
- the Council considered that the ward system was seen as providing fair representation for each ward in the City, and so far as is practicable the proposal provided effective representation for communities of interest within the City;
- the Council rejected the Chalmers Community Board's objection for a separate Chalmers Ward as it would result in an inequitable member to population ratio;
- the Council does not dispute that the Chalmers area comprises a community of interest. It considers however that the community of interest does not necessarily require recognition through a separate ward;

- while the Cargill Ward comprises a number of different communities of interest so do a number of other wards;
- the Chalmers community of interest is recognised by the existence of a community board;
- the Chalmers area is represented by three ward councillors, one of whom lives in the Chalmers community;
- all councillors work hard for the Chalmers area . It is of benefit to the Chalmers area that more than one councillor is familiar with the area; and
- all councillors must act in the interest of the City as a whole, not just the ward they represent.

Chalmers Community Board: The chairperson of the Board addressed the Board's appeal. Her comments may be summarised as follows:

- the Board sought the reinstatement of the former Chalmers Ward;
- the current ward arrangements had brought no benefit to the Chalmers area;
- “numerical crunching” should not be the sole measure of representation - other factors are of equal importance;
- it is possible that all three members elected for the Cargill Ward at the 2001 elections might live outside the Chalmers Community;
- a councillor with local knowledge is a valued and integral link between residents, the Board and the Council;
- the location of the Port in the Chalmers Community creates particular issues, and local knowledge and interest can lead to resolution of many problems;
- a 1997 University of Otago survey indicated that Chalmers residents had a higher degree of recognition of their ward councillor than other wards;
- there are clear boundaries defining Chalmers as a distinct community of interest;
- information was provided about a number of factors which point to that community of interest. These included shopping and other services, entertainment, place of work, education and transport links;
- the demographic characteristics of the Chalmers area are significantly different from the remainder of the Cargill Ward, with those living in the Chalmers area being on the average older with more long term family and community affiliations than those living in the student areas of the ward;
- the loss of the Chalmers Ward has caused many to lose faith in the Council and a belief that their local identity is being eroded.

The Council in reply: The Deputy Mayor made the following comments:

- fair representation was calculated using the same methodology as that used by the Local Government Commission in 1998;
- the Chalmers area had benefited from being represented by 3 members instead of the previous one; and
- the role of the councillor is wider than the “pot hole” fixation of past years.

MATTERS FOR DETERMINATION

8 The statutory provisions in respect of these appeals are contained in sections 101K and 101L of the Act. Section 101K(1) states:

- “(1) The Commission shall before the 29th day of March of the year of each triennial general election-*
- (a) Consider the resolutions, objections, appeals, counter-objections, and information forwarded to it under section 101J of this Act; and*
 - (b) Subject to section 101L of this Act, determine the number of wards or constituencies and their names and boundaries, and the number of members to be elected by the electors of each ward or constituency or, as the case may be, by the electors of the district as a whole.”*

9 The relevant provisions of section 101L are subsections (2) and (3) which state:

- “(2) In determining whether the council is to be elected by the electors of the district as a whole or by the electors of two or more wards and in determining (where necessary) the number and boundaries of wards, the territorial authority and, where appropriate, the Commission shall ensure-*
- (a) That the election of members of the council by the electors of the district as a whole or by the electors of the 2 or more wards whose number and boundaries are determined will provide effective representation of communities of interest within the district; and*
 - (b) That ward boundaries coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes; and*
 - (c) That, so far as is practicable, ward boundaries coincide with community boundaries.*
- “(3) In determining the number of members to be elected by the electors of any constituency or ward, the council and, where appropriate, the Commission shall ensure that the electors of the constituency or ward receive fair representation having regard to the population of every constituency or ward within the region or district and, if the circumstances so require, the rateable values, areas, or other relevant characteristics of the various constituencies or wards.”*

Consideration by the Commission

10 The Commission considers that when deciding:

- (a) whether the election of the members of a council (other than the Mayor) be by the electors of the whole district or on a ward basis;
- and
- (b) if on a ward basis, the number and boundaries of the wards,

that the only criterion to be met within the terms of section 101L(2) is the provision of effective representation of the various communities of interest within the district. This can be achieved by any ward encompassing one or more communities of interest. What the Commission has to do then is determine which communities of interest or groupings of communities of interest require representation.

- 11 The Commission further considers that when deciding on the number of councillors to be elected by the electors of any ward, the sole criterion to be met under section 101L(3) is the provision of fair representation for the electors of the various wards within the district. In deciding this fairness of representation, the Commission must have regard primarily to population, but if this factor alone does not, in the opinion of the Commission, achieve fairness then regard should be given to rateable value and area or other relevant characteristics of the various wards. In the opinion of the Commission, population must constitute the predominant factor, but, if other factors are applied, different weightings can be applied to all factors as are appropriate in any given circumstances. The Commission does not consider that any particular formula must be applied and consequently, any mathematical calculation should be seen only as a guide to a level of fairness which can be achieved on the basis of the factors required to be taken into account under the provisions of the Act. In the end though, the final decision must be that which the Commission considers will, after having regard to the various factors set out in the Act, provide the fairest representation on balance for the electors of each ward.
- 12 In the Commission's opinion, its first responsibility, which also applied to the Council, was to decide whether or not the district should be divided into wards, and if so the number and boundaries of those wards to provide effective representation of communities of interest within the district.
- 13 In 1998 the Commission concluded that Dunedin City has a large number of communities of interest and that a ward system was required to ensure that those communities of interest receive effective representation. The Commission has seen no evidence to lead it to believe that this situation has changed. This was clearly the view arrived at by the Council in its 2001 review. It notes also that none of the objectors or the appellant has called for a ward system to be dispensed with, although there was some variation in thinking as to what shape the ward system should take.

Appropriate Ward System

- 14 Having decided that the basis of election will be a ward system, the Commission then had to consider the number and boundaries of wards necessary to ensure the effective representation of the various communities of interest in the City. The Commission does not consider that section 101L envisages that every individual community of interest requires separate representation. Its sole requirement in this regard is that the representation of communities of interest must be effective.
- 15 The Commission emphasises that wards are for electoral purposes only, and that the Council is the entity to which members are elected.
- 16 In the Commission's view, where it is appropriate for a district to be divided into wards, there should be such number as is necessary and consistent with the concept of effective representation of various communities of interest.
- 17 The argument raised by the appellants was that the Chalmers area should have separate representation through a Chalmers Ward. This was argued on the grounds that the area contains a distinct community of interest and that a Chalmers Ward is required to ensure effective representation of that community of interest.
- 18 The Council's argument was that effective representation for the area is achieved through Chalmers being part of a larger three member ward. It also argued that if a Chalmers Ward is established the member:population ratio of both that ward and the remainder of the Cargill Ward would be inequitable compared with other wards.
- 19 The Commission agrees that Chalmers has a distinct community of interest. However it is not automatic that every distinct community of interest will have a separate ward. The question the Commission has to consider in this case is whether there are particular circumstances that require Chalmers to have separate representation.
- 20 The Council's argument about population inequities is not in itself a reason for not establishing a separate ward. There are many cases, including the Taieri and Waikouaiti Coast Wards in Dunedin City, where wards have a smaller population than that warranting a separate ward if population were the only basis on which wards are determined. The Commission must say, however, that separate wards in such cases will result in statistical over-representation at the expense of other wards. Therefore there has to be a compelling case for wards to be established in such circumstances.
- 21 Any large City will most likely consist of many communities of interest and separate representation for each is not practicable. An entirely discrete community isolated by considerable distance from other parts of a district may well require separate representation. However, the Commission is not satisfied that this situation exists in

respect of Chalmers. It is true that a rural area separates Chalmers from the main Dunedin urban area. However, this does not equate to isolation. The travelling time between the two is not excessive. In the case of the western-most part of the proposed Chalmers Ward - Ravensbourne and St Leonards - the distance is minimal.

- 22 The Commission was not convinced that the Chalmers area is not receiving effective representation under the current ward arrangements. Any argument that the area might not receive such representation in the future appeared to the Commission to be entirely speculative. The Commission has consequently decided that a separate ward should not be established for the Chalmers community.
- 23 The Council has proposed that the City continue to be divided into 7 wards, which are those determined by the Commission in its 1998 decision. The Commission considers that the proposed structure will provide for the effective representation of communities of interest within the City.

Number of Members

- 24 Having decided that there will be 7 wards, the Commission is then required to determine what would be fair representation for the electors of the various wards.
- 25 As noted above, the number of members to be elected by each ward is to be determined on the basis of providing fair representation for the electors of the various wards having regard to population and, if the circumstances so require, the rateable value and area of every ward. However, inherent in the decision to create an area as a ward is a requirement that the ward be represented by at least one member.
- 26 On the basis of the current membership of 14 members, or for that matter any number even remotely close to 14, the Taieri and Waikouaiti Coast Wards would on a statistical basis be entitled to considerably less than one member. However, given that these two areas have been identified as requiring separate wards to achieve effective representation they are obviously entitled to the minimum of one member each. The following analysis is therefore confined to the remaining predominantly urban wards.
- 27 The Act does not specify what weightings are to be given to particular factors, however it does require the allocation of members to wards to result in fair representation for each ward. The Council used population as the sole criterion for the determining the number of members to be allocated to wards. The Commission agrees that this is most appropriate approach for Dunedin City.

- 28 Set out below is a table showing the number of members that each of the urban wards would be entitled to using total numbers of members ranging from 10 to 13.

Wards	Population	%	Members			
			10	11	12	13
Cargill	30900	27.76	2.78	3.05	3.33	3.61
Hills	25900	23.26	2.33	2.56	2.79	3.02
South Dunedin	35200	31.62	3.16	3.48	3.79	4.11
Green Island-Saddle Hill	9550	8.58	0.86	0.94	1.03	1.12
Mosgiel	9780	8.78	0.88	0.97	1.05	1.14
Total	111330	100.00				

- 29 The Commission considers that fairness can be achieved between the representation of each ward with a total of 12 members for the urban wards, as proposed by the Council.
- 30 Therefore, having considered all aspects of the matter of representation the Commission has concluded that the membership of the Council should total 14 members and the Mayor, taking into account the population of each ward on the basis outlined above, and as far as the Taieri and Waikouaiti Coast Wards are concerned, as discussed in paragraph 26.

DETERMINATION

- 31 Under section 101K of the Act, the Commission, determines that for the general election of the Council to be held on 13 October 2001 -
- (1) Dunedin City, as delineated on SO Plan No 23761 deposited with the Chief Surveyor of the Otago Land District, shall be divided into seven wards:
 - (2) those seven wards shall be:
 - (a) the Waikouaiti Coast Ward, comprising the area delineated on SO Plan No 24242 deposited with the Chief Surveyor of the Otago Land District;
 - (b) the Taieri Ward, comprising the area delineated on SO Plan No 23745 deposited with the Chief Surveyor of the Otago Land District;
 - (c) the Mosgiel Ward, comprising the area delineated on SO Plan No 23146 deposited with the Chief Surveyor of the Otago Land District;
 - (d) the Green Island-Saddle Hill Ward, comprising the area delineated

- on SO Plan No 24797 deposited with the Chief Surveyor of the Otago Land District;
- (e) the South Dunedin Ward, comprising the area delineated on SO Plan No 24795 deposited with the Chief Surveyor of the Otago Land District;
 - (f) the Hills Ward, comprising the area delineated on SO Plan No 24796 deposited with the Chief Surveyor of the Otago Land District;
 - (g) the Cargill Ward, comprising the area delineated on SO Plan No 24794 deposited with the Chief Surveyor of the Otago Land District.
- (3) The Council shall comprise a Mayor and 14 members of whom:
- (a) one member shall be elected by the electors of the Waikouaiti Coast Ward; and
 - (b) one member shall be elected by the electors of the Taieri Ward; and
 - (c) one member shall be elected by the electors of the Mosgiel Ward; and
 - (d) one member shall be elected by the electors of the Green Island-Saddle Hill Ward; and
 - (e) four members shall be elected by the electors of the South Dunedin Ward; and
 - (f) three members shall be elected by the electors of the Hills Ward; and
 - (g) three members shall be elected by the electors of the Cargill Ward.

32 As required by section 101L(2) of the Act, the boundaries of the above wards coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes.

THE LOCAL GOVERNMENT COMMISSION

Sir Ross Jansen (Chairman)
Barbara Durbin (Commissioner)
Bruce Anderson (Commissioner)

27 March 2001