



LOCAL GOVERNMENT COMMISSION

Determination

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

Background

1. The Otago Regional Council (the Council) elected at the 2004 local election comprises 12 councillors. The 12 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
Dunstan	38,600	2	19,300	+2908	+17.74
Moeraki	21,700	2	10,850	-5542	-33.81
Molyneux	33,100	2	16,550	+158	+0.97
Dunedin	103,300	6	17,217	+825	+5.03
TOTALS	196,700	12	16392		

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

2. To commence its review under section 19I of the Local Electoral Act 2001 (the Act), the Council considered five options. These involved a range of numbers of councillors between 10 and 12 and a variety of constituency arrangements.
3. On 10 May 2006 the Council resolved its initial representation proposal for the 2007 local elections 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
Dunstan	38,540	2	19,270	+1401.82	+7.85
Moeraki	18,370	1	18,370	+501.82	+2.81
Molyneux	33,390	2	16,695	-1173.18	-6.57
Dunedin	106,250	6	17,708	-159.85	-0.89
TOTALS	196,550	11	17,868		

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

4. The proposed changes to the current arrangements were:
 - the transfer of the area of the former Waikouaiti Coast Ward from the Mosgiel Constituency to the Dunedin Constituency; and
 - a decrease in the number of councillors elected from the Moeraki Constituency from two to one.
5. The Council publicly notified its proposal on 20 May 2006. It received nine submissions on its proposal. One submission was in favour of the Council's proposal. The other submissions can be summarised as follows:
 - one sought the retention of two councillors for the Moeraki Constituency;
 - two sought the retention of two councillors for the Moeraki Constituency and the transfer of the Maniototo Ward (Central Otago District) from the Dunstan Constituency to the Moeraki Constituency;
 - one sought the division of the Molyneux Constituency into a Clutha Constituency and a Mosgiel-Taieri Constituency with one councillor each;
 - one sought three councillors for the Dunstan Constituency;
 - one sought the division of the Dunstan Constituency into a Central Otago Constituency and a Queenstown-Lakes Constituency with one councillor each; and
 - one sought a ten-member council with the Dunedin Constituency electing 5 councillors, and Queenstown-Lakes, Central Otago, Clutha, Mosgiel-Taieri and Moeraki constituencies electing one councillor each.
6. The Council's hearing committee recommended to the Council that the Moeraki Constituency retain two councillors. The Council, however, resolved on 9 August 2006, to adopt its initial proposal as its final proposal.
7. In notifying its final proposal, the Council noted that it had rejected the matters raised in submissions for the following reasons:
 - the Maniototo Ward was deemed to have no community of interest with the Moeraki Constituency and so should remain in the Dunstan Constituency;
 - splitting the Molyneux Constituency was rejected for the reason that to do so would create the perception of a new urban constituency in the Mosgiel area, and for the importance of retaining dual representation;
 - splitting the Dunstan Constituency and adding an additional councillor in the Queenstown-Lakes area was rejected for the reason of not providing dual representation in the Central Otago area, and not meeting the population ratios in the legislation; and
 - providing three representatives for the Dunstan Constituency was rejected for the reason that it would not meet the population ratios in the legislation.
8. Four appeals were lodged against the Council's final proposal. Each sought the retention of two councillors representing the Moeraki Constituency.

Hearing

9. The Commission met with the Council and appellants who had expressed a desire to be heard, at a hearing held in the Otago Regional Council Chambers on 12 March 2007. The Council was represented by Stephen Cairns, Chairperson, Graeme Martin, Chief Executive and Wayne Scott, Director Corporate Services. The appellants who appeared at the hearing were the Waitaki District Council, represented by Councillor Rodney Grater and Richard Mabon, Manager Strategy Group; and Federated Farmers represented by Bruce McNab and Matt Harcombe.

Matters raised in objections and at the hearing

10. The main arguments presented in support of the retention of two councillors for the Moeraki Constituency were that:
- the Council should have exercised its discretion and applied section 19V(3)(b) of the Act to provide representation arrangements that do not meet the +/-10% requirement;
 - the current system of representation has worked well for 18 years;
 - there is a clear community of interest defined by the current constituency boundary;
 - there are a number of challenging environmental issues facing the Moeraki Constituency, principally relating to water;
 - the current level of representation for the Moeraki Constituency is justified by increases in the workload of the Council in the areas of irrigation, coastal planning, subdivisions and mining;
 - the Council's proposal doesn't meet the needs of the community; and
 - an allocation of one councillor to the Moeraki Constituency is inconsistent with the decision to retain two councillors for the Dunstan and Molyneux Constituencies and the Council's preference for a minimum of two councillors per constituency.

Matters for determination

11. 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

12. 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).
13. 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, however, does not define 'effective representation' or 'communities of interest'.
14. The steps in the process for achieving effective and fair representation are not statutorily prescribed. The Commission believes, however, 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.

Otago Region

15. The Council proposed that the region's communities of interest relate primarily to territorial authority areas and wards. 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.
16. On this basis, the Council proposed:
 - a Dunstan Constituency covering Queenstown-Lakes District and Central Otago District;
 - a Moeraki Constituency covering that part of Waitaki District in the Otago Region;
 - a Molyneux Constituency covering Clutha District and the Mosgiel-Taeiri Ward of Dunedin City; and
 - a Dunedin Constituency covering the Waikouaiti Coast-Chalmers, Cargill, Hills, Green Island-Saddle Hill and South Dunedin Wards of Dunedin City.
17. The appellants raised two issues in their appeals:
 - the retention of the area of the former Waikouaiti Coast Ward in the Moeraki Constituency, rather than it being included in the Dunedin Constituency; and
 - the retention of two councillors to represent the Moeraki Constituency.
18. The arrangements proposed by the appellants would not comply with the requirements of section 19V(2) outlined in paragraph 13. Section 19V(3)(b) of the Act does, however, provide 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. This latter issue forms the core of the Commission's consideration.
19. The appellants argued that the area of the former Waikouaiti Coast Ward of Dunedin City has a significant community of interest with the southern part of Waitaki District. The Commission notes that this area has been included in the Moeraki Constituency since 1989. However the Commission was not convinced that the connection it has with the southern part of Waitaki District is so great that it requires to continue to form part of the Moeraki Constituency. The area is part of Dunedin City and this is likely to constitute its primary community of interest. The southern part of the current Moeraki Constituency, in fact, lies very close to the Dunedin urban area. The Commission therefore determines that the boundaries of the Moeraki and Dunedin Constituencies should be as proposed by the Council.
20. The next question the Commission is required to determine is the number of councillors to represent the Moeraki Constituency. The Commission

acknowledges the desire of the appellants to maintain the level of representation currently enjoyed by the Moeraki Constituency.

21. This is the first representation review carried out by the Council under the Act. The Commission is required to consider the representation arrangements for the Otago Region in the context of the new legislation. As noted above, what it has to do is determine whether effective representation of communities of interest require an allocation of members to the Moeraki Constituency that does not comply with section 19V(2).
22. The appellants argued that the issues arising in the Moeraki Constituency in a regional council context justifies two councillors. The Commission does not consider that the range of issues sets the Moeraki Constituency apart from other constituencies in the region. Each has its own unique set of issues. The other constituencies do comply with the +/-10% rule.
23. The appellants also argued that an allocation of one councillor to the Moeraki Constituency would be inconsistent with the decision to retain two councillors for the Dunstan and Molyneux Constituencies and the Council's preference for a minimum of two councillors per constituency. This comparison is not, in itself, a reason to set aside section 19V(2). The Commission notes that the area of the Moeraki Constituency is significantly smaller than that of the Dunstan and Molyneux Constituencies and it must follow that the servicing and representation needs of the constituency are proportionately less.
24. The Commission did not consider that it could justify an exception from the +/-10% rule on the arguments put to it. The Commission therefore determines that the Moeraki Constituency be allocated one councillor.
25. No appeals were received in respect of the other constituencies in the region. The Commission believes that they appropriately reflect existing communities of interest.
26. The Commission believes that the above decisions will provide effective representation of the communities of interest of the Otago Region. They also provide fair representation of electors. The Commission therefore confirms the Council's proposal.

Determination

27. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the election of the Otago Regional Council to be held on 13 October 2007, the following representation arrangements will apply -
 - (1) The Otago Region, as delineated on S.O. Plan 24288 deposited with Land Information New Zealand, shall be divided into four constituencies;
 - (2) Those four constituencies shall 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; and
 - (d) the Dunedin Constituency, comprising the area delineated on SO Plan 386309 deposited with Land Information New Zealand;
- (3) The Otago Regional Council shall comprise eleven councillors elected as follows –
- (a) two councillors shall be elected by the electors of the Dunstan Constituency;
 - (b) one councillor shall be elected by the electors of the Moeraki Constituency;
 - (c) two councillors shall be elected by the electors of the Molyneux Constituency; and
 - (d) six councillors shall be elected by the electors of the Dunedin Constituency.

28. 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

Gwen Bull (Commissioner)

Wynne Raymond (Commissioner)

30 March 2007