



LOCAL GOVERNMENT COMMISSION

Determination

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

BACKGROUND

- 1 The Southland Regional 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 Southland Regional Council elected at the 1998 general election comprises 11 members elected from 6 constituencies, as follows:

Awarua Constituency	2 members
Waikiwi Constituency	3 members
Gore Constituency	2 members
Te Anau Constituency	1 member
Dome Constituency	1 member
Hokonui Constituency	2 members.

- 3 Following its review, the Council proposed that the Council to be elected at the 2001 general election comprise 11 members, elected as follows:

Awarua Constituency	2 members
Waikiwi Constituency	2 members
Gore Constituency	2 members
Te Anau Constituency	1 member
Dome Constituency	1 member
Hokonui Constituency	2 members
Southern Constituency	1 member.

This proposal involved the following changes to the status quo:

- the transfer of Stewart Island from the Hokonui Constituency to the proposed Awarua Constituency;
- the division of the existing Hokonui Constituency to create the proposed Hokonui and Southern Constituencies, with two members and one member respectively; and
- the reduction in membership of the Waikiwi Constituency from three members to two members.

4 The Council received 5 objections and 13 letters of support regarding its proposal by the publicly notified closing date for objections. The objections were from:

- Bush Community Board;
- Te Runaka O Rakiura, Te Rau Ura O Te Rakitamau;
- Waihopai Runaka;
- Alan Swallow; and
- Invercargill City Council

5 A late objection, from the Southland District Council, on behalf of that Council and the Stewart Island Community Board, was received by the Council eleven days after the closing date for objections. This late objection was considered by the Council, along with those received by the publicly notified closing date for objections.

6 The objections related to the following matters:

- the number of members of the Waikiwi and Gore Constituencies;
- the continued existence of the Waikiwi Constituency; and
- the name of the proposed Awarua Constituency.

7 Following consideration of the objections, the Council amended its proposal by changing the name of the proposed Awarua Constituency to “Awarua/Te Ara a Kewa”.

8 The Bush Community Board and the Invercargill City Council each lodged an appeal in respect of the number of members proposed for the Waikiwi Constituency. They also each lodged a counter-objection in respect of the name of the proposed Awarua/Te Ara a Kewa Constituency. The Southland District Council and the Stewart Island Community Board lodged a joint appeal in respect of the name of the proposed Awarua/Te Ara a Kewa Constituency.

Preliminary Matter for Determination

9 The Commission, on receiving advice of the appeal and counter-objections, resolved that before making a determination of the electoral arrangements of the

Council, it would meet with the Council, and the appellants and counter-objectors if they wished to be heard. The Commission resolved to meet the Council, and the appellants and counter-objectors in Invercargill on 8 December 2000.

The Hearing

10 The Commission met with representatives of the Council, the Invercargill City Council and the Bush Community Board.

The Council: Cr Stuart Collie spoke to a submission. The content, his comments and replies to questions may be summarised as follows:

- the Council has proposed a governance structure that meets the needs of the Region;
- coastal management and its costs are a big issue for the Council as the Region contains 17% of New Zealand's coastline;
- the Council recognises that its proposal in respect of the name of the proposed Awarua/Te Ara a Kewa Constituency was inadequate and invites the Commission to consider the name "Awarua/Rakiura" if it determines there to be a constituency within the proposed boundaries;
- there has been wide support, and no objections to the proposed new Southern Constituency and the combining of Stewart Island with the existing Awarua Constituency;
- the nature of the Gore Constituency led the Council to retain two members to fairly represent the rural and urban interests in that Constituency;
- reducing the membership of the Gore Constituency to one member would have been unfair because of the size of the constituency, the population that the single member would have to serve and the diverse interests within the constituency;
- the regional functions relating to the management of natural and physical resources justify considerable weighting on rateable values and constituency size;
- Council considered that the Waikiwi Constituency would be capable of being fairly represented by two members because of its small area and closely settled urban nature, and the proximity of the Council office;
- the Waikiwi Constituency experiences relatively few resource issues and imposes a lighter demand on members when compared to rural constituencies;
- the Council favours 11 members, but if the Commission was to determine that the appeals are to prevail, then the Council would reluctantly accept an increase to 12 members; and
- the Council acknowledges that the joint objection of the Southland District Council and the Stewart Island Community Board was received after the closing date - the Council took the matters raised in the objection into

consideration as it did not wish to exclude any relevant matters in its deliberations.

The Council's General Manager, Lindsay McKenzie, made the following comments in response to questions from the Commission:

- the Council fully acknowledges that the joint objection of the Southland District Council and Stewart Island Community Board was out of time but did not wish to deny the opportunity for the issues raised in the objection to be considered - the Council notes that there have been cross-objections on the same issue as that raised in the Council and Community Board's objection and subsequent appeal;
- the Council rates on land or capital value depending on the services being provided - in the Council's calculations rateable value was taken to be land value;
- the main resource management issue in the urban area of the Waikiwi Constituency is odour;
- the Council is looking to transfer its transport services function to the Invercargill City Council as the residents of the City derive the benefit of the service; and
- having arrived at a statistical outcome regarding membership the Council stepped back to look at the overall picture and decided that the Gore and Waikiwi Constituencies should each have two members.

The Council's Policy and Planning Manager, Ken Swinney, made the following comments in response to questions from the Commission:

- the weightings of 75% population, 12.5% rateable value and 12.5% area were applied by the Council after looking at the weightings commonly used by other local authorities, particularly regional councils; and
- the membership of the Gore and Waikiwi Constituencies has arrived at after applying the weighted formula as well as considering the burden of work in each constituency.

Invercargill City Council: The Deputy Mayor (Neil Boniface) addressed the Invercargill City Council's appeal. His comments and replies to questions may be summarised as follows:

- the Council has not given any rationale for the weightings of 75% population, 12.5% rateable value and 12.5% area that it applied
- the Invercargill City Council considers that weightings of 80% population, 10% rateable value and 10% area would be more appropriate;
- the Invercargill City Council agrees with the logic of establishing the new Southern Constituency and the inclusion of Stewart Island in a "Awarua" Constituency;
- the Invercargill City Council considers that the Council sought to stick with 11 members, so had to reduce the membership of the Waikiwi Constituency to achieve that goal;

- Gore justifies 2 members on a 12 member Council;
- the Invercargill City Council was not consulted over the reduction in membership of the Waikiwi Constituency;
- Invercargill City has a large coastal environment, and a lot of the Region's business relates to the City; and
- the Invercargill City Council would support a 12 member Council, with 3 members for the Waikiwi Constituency.

Mr Boniface also addressed the Invercargill City Council's counter-objection. His comments may be summarised as follows:

- there is no mandate from the community to change the name of the "Awarua" Constituency; and
- changing the name may cause confusion for voters.

Bush Community Board: The Chairman (Selwyn Steedman) and member (Pam Mason) spoke to a submission on the Bush Community Board's appeal. Its contents, their comments and replies to questions may be summarised as follows:

- the proposal will not result in fair representation for the Waikiwi Constituency;
- under the proposal, the Awarua and Waikiwi Constituencies have 55% of the population and 36% of the representation;
- on the basis of the Council's weightings of 75% population, 12.5% rateable value and 12.5% area, the Waikiwi Constituency has an indicated membership of 2.85 and the Gore Constituency has a indicated membership of 1.40;
- the weightings applied by the Council to factors other than population could be construed as generous;
- the Board is concerned that the evidence to date indicates that the number of Councillors for the 2001 elections was the starting point, not the end product of the review process;
- it is not established that there are circumstances as to why population alone should not be the sole criteria for determining representation;
- the Council has ignored the results of its own weightings in giving both the Gore and Waikiwi Constituencies two members each;
- the Waikiwi Constituency has considerable environmental issues, with Invercargill being the exit point for several river systems with a number of detention dams and the estuary; and
- in the Board's view the best fit in terms of representation would be a 12 member Council with the Waikiwi Constituency having three members and the Gore Constituency having two members.

The Board's representatives also spoke to a submission on the Bush Community Board's counter-objection. Its contents, their comments and replies to questions may be summarised as follows:

- although there were three formal suggestions for an amended name for the Awarua Constituency, no submitter suggested Awarua/Te Ara a Kewa;
- the proposed name does not reflect the addition of the community of interest of Stewart Island; and
- the Board suggests that the name of the proposed constituency should be “Awarua” but would not object to the name “Awarua/Rakiura”.

The Council in Reply: Cr Collie made comments in reply, which may be summarised as follows:

- the community of interest to be represented through the new constituency is more important than the total number of Councillors;
- the Invercargill City Council was consulted on the Council’s proposals; and
- consultation with iwi indicates strong support for a name that reflects the joining of Stewart Island with the Awarua Constituency.

MATTERS FOR DETERMINATION

11 Section 101D(2) of the Act provides that “every region shall be divided into constituencies for electoral purposes”. That, therefore, is not a matter which must be determined by the Commission.

12 The statutory provisions in respect of these appeals and counter-objections 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.”*

13 The relevant provisions of section 101L are subsections (1) and (3) which state:

- “(1) In determining the number and boundaries of constituencies, the regional council and, where appropriate, the Commission shall ensure-*
- (a) That the number and boundaries of constituencies will provide effective representation of communities of interest within the region; and*
 - (b) That constituency 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, constituency boundaries coincide with the boundaries of one or more territorial authority districts or the boundaries of wards.”

“(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

14 The Commission considers that when deciding on the number of councillors to be elected by the electors of any constituency, the sole criterion to be met under section 101L(3) is the provision of fair representation of the electors of the various constituencies within the region. 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 constituencies. In the opinion of the Commission population must remain 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 indicative as 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. The final decision must be that which, the Commission considers will, after having regard to the various factors set out in the Act, provide fair representation for the electors of any constituency.

15 As noted above, the legislation requires the Commission to ensure that the boundaries of constituencies will provide effective representation for communities of interest within the region. It is not of course a requirement that each individual community of interest will receive separate representation by way of a separate constituency. The Commission must be convinced that the particular community of interest, or in some cases, appropriate groupings of communities of interest will require separate representation to ensure the effective representation of those communities of interest. The Commission also considers that inherent in the concept of effective representation for communities of interest is the ability of those communities to receive fair representation.

- 16 The Council is of the view that the existing Hokonui Constituency is too large to provide effective representation for the communities of interest encompassed by it. To enhance effective representation, the Council has proposed to reduce the size of the Hokonui Constituency, through creating a Southern Constituency and the transfer of Stewart Island to the constituency currently known as the Awarua Constituency. The Commission notes that there were no objections or appeals against these aspects of the Council's proposals, and that the Council received a number of letters in support of these changes.
- 17 The Commission is satisfied that the division of the Region into the constituencies proposed by the Council will provide effective representation for the communities of interest in the Region.
- 18 The next matter considered by the Commission was the name of the proposed Awarua/Te Ara a Kewa Constituency. In its submissions to the Commission at the hearing, the Council stated that it recognised that its proposal in respect of the name of the constituency was inadequate, in that the proposed name does not achieve what consultation with iwi sought, nor does it reflect the wishes of the Stewart Island community. The Council then suggested that the constituency should be known as the Awarua/Rakiura Constituency. The Commission notes that "Awarua/Rakiura" was suggested as an appropriate name by the Southland District Council and the Stewart Island Community Board in their joint appeal against the Council's proposal, and that the Invercargill City Council and the Bush Community Board both indicated at the hearing that they would not object to the name "Awarua/Rakiura". The Commission is satisfied that naming of the constituency as the Awarua/Rakiura Constituency gives appropriate recognition to the communities of interest that make up the constituency.
- 19 The Commission finally considered whether the division of the Southland Region into the constituencies proposed by the Council would create a situation where fair representation is possible. In determining its proposal, the Council applied a formula with the following weightings - population 75%, area 12.5%, rateable value 12.5%. Arguments have been made by the appellants that the Council has not justified the application of factors other than population, that weightings of population 80%, area 10%, rateable value 10% would be more appropriate, or that the Council should have adhered to the outcome derived from its own formula. The following table sets out what the statistical allocation of members would be for the constituencies proposed by the Council for a membership of 11 or 12 when applying the various formulae (the population figures are drawn from the 1996 Census):

Constituency	Population only	Population only	75%/12.5%/12.5%	75%/12.5%/12.5%	80%/10%/10%	80%/10%/10%
	11 members	12 members	11 members	12 members	11 members	12 members
Awarua/Rakiura	2.54	2.77	2.16	2.36	2.24	2.44
Waikiwi	3.52	3.84	2.85	3.11	2.98	3.25
Gore	1.53	1.67	1.40	1.53	1.43	1.56
Te Anau	0.54	0.59	0.86	0.93	0.80	0.87
Hokonui	1.64	1.79	1.84	2.01	1.80	1.97
Dome	0.43	0.47	0.85	0.92	0.76	0.83
Southern	0.80	0.87	1.04	1.14	0.99	1.08
TOTAL	11	12	11	12	11	12

- 20 The table shows that a poor fit in terms of the fairness of representation of each constituency is achieved with population alone. The Commission is of the view that the application of factors in addition to population is justified in this case, given the Council's resource management responsibilities, the large area of the Region and its relatively isolated hinterland and coastal areas. The use of area as a factor enables recognition to be given to the fact that management of resource issues in less densely populated areas is a significant part of the responsibilities and expenditure of the Council. The use of rateable value enables due regard to be given to people-based activities which require the regulation of environmental impacts in more closely settled areas.
- 21 The table shows that there no practical difference in the statistical allocations achieved through applying the weightings of either 75/12.5/12.5 or 80/10/10. In the case of the Southland Region, the Commission is satisfied that the weightings of 75/12.5/12.5 are appropriate to take into account the regional resource management responsibilities of the Council and the particular geography of the Region.
- 22 The Commission has decided that a Southland Regional Council with a total of 12 members would provide the fairest representation for the electors of each constituency. The members will be elected on the following basis:

Awarua/Rakiura Constituency	2 members
Waikiwi Constituency	3 members
Gore Constituency	2 members
Te Anau Constituency	1 member
Hokonui Constituency	2 members
Dome Constituency	1 member
Southern Constituency	1 member

DETERMINATION

- 23 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) The Southland Region, as delineated on S.O. Plan 301280 deposited with the Chief Surveyor of the Southland Land District, shall be divided into 7 constituencies;
 - (2) Those 7 constituencies shall be -
 - (a) The Awarua/Rakiura Constituency, comprising the area delineated on S.O. Plan No. 301281 deposited with the Chief Surveyor of the Southland Land District;
 - (b) The Waikiwi Constituency, comprising the area delineated on S.O. Plan No. 11507 deposited with the Chief Surveyor of the Southland Land District;
 - (c) The Gore Constituency, comprising the area delineated on S.O. Plan No. 11837 deposited with the Chief Surveyor of the Southland Land District;
 - (d) The Te Anau Constituency, comprising the area delineated on S.O. Plan No. 11503 deposited with the Chief Surveyor of the Southland District;
 - (e) The Hokonui Constituency, comprising the area delineated on S.O. Plan No. 301282 deposited with the Chief Surveyor of the Southland Land District;
 - (f) The Dome Constituency, comprising the area delineated on S.O. Plan No. 12076 deposited with the Chief Surveyor of the Southland Land District; and
 - (g) The Southern Constituency, comprising the area delineated on S.O. Plan No. 301283 deposited with the Chief Surveyor of the Southland Land District;
 - (3) The Council shall comprise the 12 members who shall be elected as follows
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- (a) two members shall be elected by the electors of the Awarua/Rakiura Constituency;
- (b) three members shall be elected by the electors of the Waikiwi Constituency;
- (c) two members shall be elected by the electors of the Gore Constituency;
- (d) one member shall be elected by the electors of the Te Anau Constituency;
- (e) two members shall be elected by the electors of the Hokonui Constituency;
- (f) one member shall be elected by the electors of the Dome Constituency; and
- (g) one member shall be elected by the electors of the Southern Constituency.

24 As required by section 101L(2) of the Act, 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

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

27 March 2001