



LOCAL GOVERNMENT COMMISSION
MANA KĀWANATANGA Ā ROHE

Determination

of representation arrangements to apply for
the election of the Southland 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.
2. The Southland 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.
3. The review of representation arrangements undertaken by the Council prior to the 2007 local elections made a number of changes to the previous constituency arrangements to achieve a greater degree of compliance with the '+/-10% fair representation rule'. The Council's review was appealed against but the Commission confirmed the Council's proposal. For those elections and the subsequent 2010 elections, the Council comprised 12 councillors, elected 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 |
|----------------------|---------------|--|---------------------------|---|---|
| Fiordland | 3,520 | 1 | 3,520 | -4,387 | -55.48 |
| Eastern-Dome | 16,150 | 2 | 8,075 | +168 | +2.13 |
| Western | 7,660 | 1 | 7,660 | -247 | -3.12 |
| Hokonui | 7,630 | 1 | 7,630 | -277 | -3.50 |
| Southern | 6,620 | 1 | 6,620 | -1,287 | -16.27 |
| Invercargill-Rakiura | 53,300 | 6 | 8,883 | +977 | +12.35 |
| TOTALS | 94,880 | 12 | 7,907 | | |

* These are updated 2011 population estimates.

4. On 25 July 2012 the Council resolved its initial proposed representation arrangements to apply for the 2013 elections. These were publicly notified on 8 August 2012. The Council's proposal was to retain the existing representation arrangements.
5. The Council received one submission on its proposal, from the Southland Province of Federated Farmers of New Zealand. The submission sought a reduction in the number of councillors from 12 to six. The Council rejected the submission and confirmed its initial proposal at a meeting on 17 October 2012.
6. The Council received no appeals against its final proposal. However, as the population to member ratios of the Fiordland, Southern and Invercargill-Rakiura Constituencies did not comply with the requirements of section 19V(2) of the Act, the Council was required by section 19V(4) 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

7. 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.*
8. 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 provide 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.*
9. 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

10. 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

11. 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.
12. The Commission considers that constituencies should be based on distinct and recognisable communities of interest reflecting these dimensions.

13. In Southland Region the constituencies are based on the following communities of interest:
- Fiordland Constituency – the Te Anau Ward of Southland District
 - Eastern-Dome Constituency – Gore District and the Five Rivers and Waikaia Wards of Southland District
 - Western Constituency – the Riverton, Tuatapere and Wallace Wards of Southland District
 - Hokonui Constituency – the Wallacetown and Winton Wards of Southland District
 - Southern Constituency – the Toetoes and Waihopai Wards of Southland District
 - Invercargill-Rakiura Constituency – Invercargill City and Stewart Island.
14. The boundaries of the constituencies are generally marked by strong geographic features, e.g. ranges of hills or significant distances between the centres of the communities of interest involved.

Effective representation of communities of interest

15. 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.
16. 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.
17. 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.
18. 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.
19. The current six constituencies date from 2007 when the Council carried out an extensive review to achieve greater compliance with the '+/-10% fair representation rule'. A previous seven constituency arrangement had been in place since 2001.
20. We consider that the current constituency boundaries continue to provide an appropriate basis for identifying communities of interest in Southland 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

21. 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').
22. As previously noted the population to member ratio for three constituencies falls outside the '+/-10% rule'. These constituencies are -
- the Fiordland Constituency with a population to member ratio of -55.48%
 - the Southern Constituency with a ratio of +16.27%
 - the Invercargill-Rakiura Constituency with a ratio of +12.35%.
23. These three constituencies fell outside the +/-10% range when the Commission last determined the Council's representation arrangements in 2007.
24. In relation to the Fiordland Constituency the then Commission commented in its determination that -

After considering the points raised by the Council, we agree that a separate Fiordland Constituency is necessary to ensure effective representation of this community of interest. In summary we agree that:

- *the area in the proposed constituency has a community of interest distinct from the rest of the region both physically and socio-economically;*
- *effective representation of this community of interest is most unlikely to be achieved for either constituency by merging Fiordland into another constituency (in order to comply with the +/-10% rule) because of the size and configuration of the resulting constituency;*
- *effective representation [of a combined constituency] would be compromised in terms of both access to a councillor and representation of the diversity of the constituency; and*
- *the demands on a councillor servicing such a large area [i.e. a combined constituency] would be unreasonable.*

25. In respect of the other non-compliant constituencies, the Commission stated that -

One appellant proposed that Stewart Island be transferred from the Invercargill/Rakiura Constituency to the Southern Constituency. This was on the basis that doing so would ensure that both constituencies comply with the +/-10% rule and that there is an insufficient community of interest between Stewart Island and Invercargill. The appellant argued that the community of interest is no greater than that of any outlying community in Southland.

We are not persuaded by these arguments. Firstly we note that the Stewart Island Community Board has expressed a wish for the island to be included in the same constituency as Invercargill. The board sought this on the basis of community interest. Although Stewart Island might have some commonality of interest with the Southern Constituency, with them both being rural areas, this does not necessarily equate to a community of interest. There is no direct transport link between the two, whereas there is between the island and Bluff in Invercargill City. This is in fact the only transport link serving Stewart Island. This sets Stewart Island apart from most other rural communities of interest in rural Southland, which have direct transport links with a number of other communities.

Stewart Island has formed part of the Awarua-Rakiura Constituency for some years. In supporting inclusion of the island in the Invercargill/Rakiura Constituency, the Stewart Island Community Board, therefore, had some basis on which to make the judgement it did. We also note that for many years Stewart Island has been included in the same parliamentary electorate as Bluff and more recently Invercargill as well.

Taking the above into account, we determine that Stewart Island will form part of the Invercargill/Rakiura Constituency.

As noted in one of the appeals, including Stewart Island in the Southern Constituency would ensure that both the Invercargill/Rakiura and Southern Constituencies comply with the +/-10% rule. However, taking into account the issues identified above, we consider that doing so would not ensure the effective representation of the community of interest on Stewart Island.

There potentially are other means of ensuring that the constituencies comply but these would involve the transfer of an area from the Invercargill/Rakiura Constituency to the Southern Constituency. There is a risk that any such transfer would result in an arbitrary boundary and not reflect communities of interest. This would also not meet the intent of 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.

26. The situation relating to these constituencies by the Commission in 2007 has not changed and we believe remains valid. Accordingly, taking into account the issues considered above, we have decided to uphold the decision of the Council in respect of its proposed representation arrangements.
27. After the Council completed its review the Southland District Council completed its representation review. The latter review proposed a new ward structure which we have confirmed after considering appeals. In some areas the boundaries of the new wards depart marginally from current ward boundaries. Most of the constituencies in Southland Region have boundaries that conform with ward boundaries and, generally, we consider it desirable for that situation to continue. We have therefore made a

number of small changes to constituency boundaries. These have no significant impact on the population to membership ratios of constituencies.

28. This meets the requirement of section 19 of the Act that, so far as practicable, constituency boundaries coincide with the boundaries of one or more territorial authority districts or the boundaries of wards. Just as importantly it will assist public understanding of representation arrangements and assist the administration of the election process.

Commission's Determination

29. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Southland Regional Council to be held on 12 October 2013, the following representation arrangements will apply:
- (1) Southland Region, as delineated on S.O. Plan 386342 deposited with Land Information New Zealand, will be divided into six constituencies.
 - (2) Those six constituencies will be –
 - (a) Fiordland Constituency, comprising the area delineated on SO Plan 11503 deposited with Land Information New Zealand
 - (b) Eastern-Dome Constituency, comprising the area delineated on SO Plan 386340 deposited with Land Information New Zealand
 - (c) Western Constituency, comprising the area delineated on SO Plan 386355 deposited with Land Information New Zealand
 - (d) Hokonui Constituency, comprising the area delineated on SO Plan 386343 deposited with Land Information New Zealand
 - (e) Southern Constituency, comprising the area delineated on SO Plan 301283 deposited with Land Information New Zealand
 - (f) Invercargill-Rakiura Constituency, comprising the area delineated on SO Plan 301281 deposited with Land Information New Zealand.
 - (3) The Southland Regional Council will comprise 12 councillors elected as follows -
 - (a) one councillor elected by the electors of Fiordland Constituency
 - (b) two councillors elected by the electors of Eastern-Dome Constituency
 - (c) one councillor elected by the electors of Western Constituency
 - (d) one councillor elected by the electors of Hokonui Constituency
 - (e) one councillor elected by the electors of Southern Constituency
 - (f) six councillors elected by the electors of Invercargill-Rakiura Constituency.
30. 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.

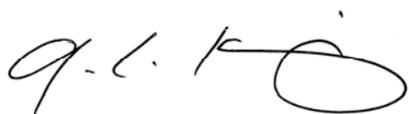
THE LOCAL GOVERNMENT COMMISSION



Basil Morrison (Chair)



Anne Carter (Commissioner)



Grant Kirby (Commissioner)

10 April 2013