



LOCAL GOVERNMENT COMMISSION
MANA KĀWANATANGA Ā ROHE

Determination

of representation arrangements to apply for
the election of the Central Otago District Council
to be held on 12 October 2013

Background

1. All territorial authorities are required under sections 19H and 19J 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, the basis of election for councillors and, if this includes wards, the boundaries and names of those wards. Reviews also include whether there are to be community boards and, if so, arrangements for those boards. Representation arrangements are to be determined so as to provide fair and effective representation for individuals and communities.
2. The Council last conducted a review of its representation arrangements prior to the 2007 local elections. Accordingly it was required to undertake a review prior to the next elections in October 2013.
3. As a result of appeals on its last review, the representation arrangements that applied at the 2007 elections and subsequent 2010 elections were determined by the Commission. In this review the Commission made a number of changes to the Council's proposal, including reducing the number of members from 13 to 10 and the number of wards from 6 to 5 to ensure compliance with the '+/-10% rule'; and reducing the number of community boards from 5 to 4. For the 2007 and 2010 elections, the Council comprised a mayor and 10 councillors, elected as follows.

Wards	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Cromwell	6,210	3	2,070	+228	+12.38
Earnsclough-Manuherikia	3,280	2	1,640	-202	-10.97
Maniototo	1,760	1	1,760	-82	-4.45
Alexandra	5,560	3	1,853	+11	+0.60
Roxburgh	1,610	1	1,610	-232	-12.60
Total	18,420	10	1,842		

* These are updated 2011 population estimates. At the time of the 2007 determination all wards complied with the +/-10% fair representation requirement.

4. There are four community boards in Central Otago District, with membership and population as follows:

Board	Population	Elected members	Appointed members
Cromwell	6,210	4	3
Vincent	8,830	5	3
Maniototo	1,760	4	1
Roxburgh	1,610	4	1

5. Prior to carrying out its formal representation review, the Council established an independent advisory panel. The role of the panel was to seek feedback from the public, elected members and key council staff on the current representation arrangements and to report back to the Council.
6. The panel concluded that significant improvements to the current representation system could be achieved by:
- enhancing the skills mix and widening the demographics of councillors
 - reducing the number of elected members
 - further empowering communities
 - strengthening efficiency and district-wide governance
7. The panel recommended:
- election of a fewer number of councillors, all at large
 - promotion of the role, importance and capacities of local planning and other community groups
 - retention at this stage and eventual role change of community boards
8. At a meeting on 15 August 2012 the Council, under sections 19H and 19J of the Act, resolved its initial representation proposal for the October 2013 elections being:
- a council of eight (plus the mayor) elected at large
 - retention of the four existing community boards each having four elected members and two appointed members
 - the renaming of the Roxburgh Community as the Teviot Valley Community.
9. The Council's initial proposal was publicly notified on 22 August 2012 and submissions called by 28 September 2012.
10. The Council received 120 submissions, which can be categorised as follows:
- 95 submitters requested the retention of a ward system
 - 24 submitters supported an at large system
 - one submission solely related to the name of a community.

11. On 12 October 2012, the Council resolved to change its final proposal to the status quo, i.e. 10 members elected from the existing wards, and the existing community board arrangements, apart from changing the name of Roxburgh Ward and Community Board to Teviot Valley.
12. The Council notified its final proposal on 25 October 2012, and called for appeals and objections by 26 November 2012.
13. Four appeals against the Council's final proposal were received as follows:
 - Malcolm MacPherson, seeking the election of councillors at large
 - Jonathan Gadd, seeking the election of councillors at large
 - John Rowley, seeking the election of councillors at large and the abolition of community boards
 - Glen Callanan, seeking alternative representation arrangements

Hearing

14. The Commission met with the Council and appellants at a hearing held in the Central Otago District Council Chambers on 6 March 2013. Each of the four appellants appeared at the hearing. The Council was represented at the hearing by the Mayor Tony Lepper and Deputy Mayor Neil Gillespie.

Matters raised in appeals and at the hearing

15. The Council representatives spoke to the Commission about the process the Council had gone through in doing its review and elaborated on the reasons for its final decision. In particular, it considered that there was satisfaction on the part of the community with the current representation arrangements and a view that the distinct communities of interest in the district desired representation through wards.
16. The main points raised by the appellants included:
 - having established the independent panel, the Council should have supported its recommendations
 - Central Otago District is increasingly becoming a single community of interest and the representation system should reflect this
 - the benefits of election at large were not well communicated to the public
 - both of the smaller wards have seen competent potential candidates not stand as they considered their wards to already be effectively represented
 - the current councillors are from a narrow demographic
 - elections to the Southern DHB, and the former Otago DHB, have resulted in a reasonable spread of candidates from throughout the DHB area, albeit through the STV electoral system
 - the current system leads to some parochialism in decision making
 - 28 elected members is too many for a district like Central Otago District
 - community boards had lost some of their responsibilities and are not as relevant as they used to be.

Requirements for determination

17. Statutory provisions relating to the determination of appeals and objections on territorial authority representation proposals are contained in sections 19R, 19H and 19J 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).*

19H. Review of representation arrangements for elections of territorial authorities

- (1) *A territorial authority must determine by resolution, and in accordance with this Part,—*
- (a) *Whether the members of the territorial authority (other than the mayor) are proposed to be elected—*
 - (i) *By the electors of the district as a whole; or*
 - (ii) *By the electors of 2 or more wards; or*
 - (iii) *In some cases by the electors of the district as a whole and in the other cases by the electors of each ward of the district; and*
 - (b) *In any case to which paragraph (a)(i) applies, the proposed number of members to be elected by the electors of the district as a whole; and*
 - (c) *In any case to which paragraph (a)(iii) applies,—*
 - (i) *The proposed number of members to be elected by the electors of the district as a whole; and*
 - (ii) *The proposed number of members to be elected by the wards of the district; and*
 - (d) *In any case to which paragraph (a)(ii) or paragraph (a)(iii) applies,—*
 - (i) *The proposed name and the proposed boundaries of each ward; and*
 - (ii) *The number of members proposed to be elected by the electors of each ward.*
- (2) *The determination required by subsection (1) must be made by a territorial authority —*
- (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.*
- 19J. Review of community boards**
- (1) *A territorial authority must, on every occasion on which it passes a resolution under section 19H, determine by that resolution, and in accordance with this Part, not only the matters referred to in that section but also whether, in light of the principle set out in section 4(1)(a) (which relates to fair and effective representation for individuals and communities) —*
 - (a) *There should be communities and community boards; and*
 - (b) *If so resolved, the nature of any community and the structure of any community board.*
 - (2) *The resolution referred to in subsection (1) must, in particular, determine—*
 - (a) *Whether 1 or more communities should be constituted:*
 - (b) *Whether any community should be abolished or united with another community:*
 - (c) *Whether the boundaries of a community should be altered:*
 - (d) *Whether a community should be subdivided for electoral purposes or whether it should continue to be subdivided for electoral purposes, as the case may require:*
 - (e) *Whether the boundaries of any subdivision should be altered:*
 - (f) *The number of members of any community board:*
 - (g) *The number of members of a community board who should be elected and the number of members of a community board who should be appointed:*
 - (h) *Whether the members of a community board who are proposed to be elected are to be elected—*
 - (i) *By the electors of the community as a whole; or*
 - (ii) *By the electors of 2 or more subdivisions; or*
 - (iii) *If the community comprises 2 or more whole wards, by the electors of each ward:*
 - (i) *in any case to which paragraph (h)(ii) applies, -*
 - (i) *The proposed name and the proposed boundaries of each subdivision; and*
 - (ii) *The number of members proposed to be elected by the electors of each subdivision.*
 - (3) *Nothing in this section limits the provisions of section 19F.*

18. Other statutory provisions the Commission is required to consider include those set out in sections 19A, 19C, 19F, 19G, 19T and 19V and these are addressed below.

Consideration by the Commission

19. The steps in the process for achieving required fair and effective 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 district's communities of interest
 - b) determine the best means of providing effective representation of the identified communities of interest

- c) determine fair representation for electors of the district.

Communities of interest

20. 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.
21. The Commission considers that the case for specific representation of distinct and recognisable communities of interest should reflect these dimensions.

Effective representation of communities of interest

22. Section 19T of the Act requires the Commission to ensure that:
 - the election of members of the council, in one of the ways specified in section 19H (i.e. at large, wards, or a combination of both) will provide effective representation of communities of interest within the district
 - ward 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, ward boundaries coincide with community boundaries.
23. 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 district as a whole. In other words, the total number of members should not be arrived at solely as the product of the number of members per ward.
24. Section 19A of the Act provides that a territorial authority shall consist of between 5 and 29 elected members (excluding the mayor). The Council has comprised 15 elected members (excluding the mayor) at its constitution in 1989, 14 members in 1992, 13 members in 1995 and 10 members since 2007.
25. 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 district level for the community of interest. From its constitution in 1989, Central Otago District has been divided into wards. From 1989 to 2007 there were six wards. In 2007 the Commission reduced the number of wards from six to five by merging the Earnscleugh and Manuherikia Wards.
26. Glen Callanan proposed a number of changes to the structure of the Council and the way in which it operates. These matters fall outside the scope of the representation review and Mr Callanan would need to pursue these matters directly with the Council.
27. The other three appellants sought election of the Council from the district as a whole. Their views are summarised in paragraph 16 and set out in more detail in their appeal documents.

28. Having considered the views of the appellants, the arguments put forward by the Council at the hearing and the documentation about the process provided to us, we have decided to uphold the Council's proposal to retain the current ward system.
29. Our general impression of Central Otago District is that of a relatively large district with distinct communities of interest separated by distinct geographic features and, in some cases, sparsely populated areas.
30. Feedback to the independent advisory panel showed a marked preference for a ward system, as did submissions on the Council's initial proposal. We consider it is important to take into account the prevailing views expressed by the community and in this case they show comfort with the current system
31. Although we do not dismiss all the points raised by appellants about some of the issues related to the current system, we are not convinced they would all be solved by an at large system. Some issues operate independently of the Council's basis of election, or at least are influenced by other matters, e.g. the remuneration system for councillors and the community's satisfaction with the council.

Fair representation for electors

32. Section 19V of the Act requires that the electors of each ward receive fair representation having regard to the population of the district and of that ward. More specifically, section 19V(2) requires that the population of each ward divided by the number of members to be elected by that ward produces a figure no more than 10% greater or smaller than the population of the district divided by the total number of elected members (the '+/-10% fair representation rule').
33. Section 19V(3)(a) does, however, permit exceptions to the '+/-10% rule' where it is considered necessary for the effective representation of island or isolated communities of interest.
34. Based on 2011 population estimates (the estimates used in the review) three of the existing wards do not comply with this requirement. These wards are as follows:

Ward	% Deviation	Population deviation from +/-10%
Cromwell	+12.38	132
Earnsclough-Manuherikia	-10.97	36
Teviot Valley	-12.60	48

35. Examination of the wards concerned shows that it would be difficult to move a discrete area from one ward to another to achieve compliance with the '+/-10% rule'. For example, to move population from Cromwell Ward to Earnsclough-Manuherikia Ward it would be necessary to transfer one or other of the following areas:
 - a small portion of Cromwell township into the Alexandra-centered Earnsclough-Manuherikia Ward or
 - a valley in the ranges above Cromwell (the Hawksburn-Carrick area)
36. There is a very strong natural divide between these two wards – the Dunstan Mountains and the Cairnmuir Mountains, which are very sparsely populated areas.

Shifting the Hawksburn-Carrick area in particular would in effect create an isolated community within Earnsclough-Manuherikia Ward.

37. We have concluded that making changes of this nature would create isolated communities (in the context of changed ward boundaries) and they would not best provide for the effective representation of the communities of interest involved. We have therefore decided to permit an exception in this case, on the grounds of isolation, from the '+/-10% rule'.
38. Similar issues relate to the non-compliance of the Teviot Valley and we have permitted this non-compliance for the same reasons as for Cromwell Ward.
39. When looking at the non-compliance of Earnsclough-Manuherikia Ward we had the benefit of the 2012 population estimates. Applying those estimates, the ward's population to member ratio is 10.19%, (that is 0.19%, or 4 people, outside the range). These estimates are rounded and taking into account rounding, we have determined that Earnsclough-Manuherikia Ward is compliant.

Communities and community boards

40. Section 19J of the Act requires every territorial authority, as part of its review of representation arrangements, to determine whether there should be community boards in the district and, if so, the nature of those communities and the structure of the community boards. The territorial authority must make this determination in light of the principle in section 4 of the Act relating to fair and effective representation for individuals and communities. The particular matters the territorial authority must determine include the number of boards to be constituted, their names and boundaries, the number of elected and appointed members, and whether the boards are to be subdivided for electoral purposes. Section 19W sets out further criteria, as apply to local government reorganisation proposals, for determinations relating to community board reviews as considered appropriate in the circumstances.
41. One appellant sought the abolition of community boards on the basis that the district is over governed and because the boards have lost some of their previous functions. Our reading of the documentation provided to us about the review indicates a view in the community that the boards remain valued and that the view of the Council is that the boards still have a high level of empowerment. We have therefore decided to uphold the Council's proposals for the retention of community boards.

Commission's Determination

42. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Central Otago District Council to be held on 12 October 2013, the following representation arrangements will apply:
 - (1) Central Otago District, as delineated on SO Plan 23130 deposited with the Land Information New Zealand, will be divided into five wards.
 - (2) Those five wards will be:
 - (a) Cromwell Ward, comprising the area delineated on SO Plan 24243 deposited with the Land Information New Zealand
 - (b) Earnsclough-Manuherikia Ward, comprising the area delineated on SO Plan 24246 deposited with the Land Information New Zealand

- (c) Maniototo Ward, comprising the area delineated on SO Plan 24247 deposited with the Land Information New Zealand
 - (d) Alexandra Ward, comprising the area delineated on SO Plan 386670 deposited with the Land Information New Zealand
 - (e) Teviot Valley Ward, comprising the area delineated on SO Plan 24244 deposited with the Land Information New Zealand.
- (3) The Council will comprise the mayor and 10 councillors elected as follows:
- (a) 3 councillors elected by the electors of Cromwell Ward
 - (b) 2 councillor elected by the electors of Earnsclough-Manuherikia Ward
 - (c) 1 councillor elected by the electors of Maniototo Ward
 - (d) 3 councillor elected by the electors of Alexandra Ward
 - (e) 1 councillor elected by the electors of Teviot Valley Ward.
- (4) There will be four communities as follows:
- (a) Cromwell Community, comprising the area of the Cromwell Ward
 - (b) Vincent Community, comprising the areas of the Earnsclough-Manuherikia Ward and the Alexandra Ward
 - (c) Maniototo Community, comprising the area of the Maniototo Ward
 - (d) Teviot Valley Community, comprising the area delineated on Teviot Valley Ward.
- (5) The membership of each community board will be as follows:
- (a) Cromwell Community Board will comprise four elected members and three members appointed to the community board by the Council being the member representing Cromwell Ward
 - (b) Vincent Community Board will comprise
 - (i) two members elected by the electors of Earnsclough-Manuherikia Ward
 - (ii) three members elected by the electors of Alexandra Ward
 - (iii) three members of the Council representing either Earnsclough-Manuherikia Ward or Alexandra Ward and appointed to the community board by the Council
 - (c) Maniototo Community Board will comprise four elected members and one member appointed to the community board by the Council representing Maniototo Ward
 - (d) Teviot Valley Community Board will comprise four elected members and one member appointed to the community board by the Council representing Teviot Valley Ward.
43. As required by sections 19T(b) and 19W(c) of the Local Electoral Act 2001, the boundaries of the above wards and communities 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