



LOCAL GOVERNMENT COMMISSION

Determination

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

BACKGROUND

1 The Clutha District 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 Clutha District Council elected at the 1998 general election comprises 14 members and the Mayor. The 14 members were elected as follows:

Balclutha Ward	4
Kaitangata-Matau Ward	2
Clinton Ward	1
Catlins Ward	1
Bruce Ward	3
Lawrence-Tuapeka Ward	1
West Otago Ward	2

3 Following its review, the Council proposed the creation of a Clutha Ward, in the most part including areas currently in the Balclutha Ward. Changes were also proposed the boundaries of the Kaitrangata-Matau, Catlins and Clinton Wards. The distribution of membership would be as follows:

Balclutha Ward	3
Clutha Ward	1
Kaitangata-Matau Ward	2
Clinton Ward	1
Catlins Ward	1

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Lawrence-Tuapeka Ward	1
Bruce Ward	3
West Otago Ward	2

- 4 The Council received objections to its proposal from:
- G McGowan and the Clutha Valley Community Centre, supporting the boundaries of the proposed Clutha Ward but seeking also the inclusion of Tuapeka Mouth;
 - the Kaitangata and District Promotions Association seeking a more distinctive name for the Clutha Ward;
 - B Hayden and M Stephens supporting the status quo; and
 - Mike Stephens who sought the inclusion of Wairepa-Waipapakā area in the Balclutha Ward.

The Council also received 16 submissions in support of its proposals for wards.

- 5 Following consideration of the objections the Council confirmed its original proposal. The reasons for the Council's decision was that:
- the community of interest of Tuapeka Mouth lies with the Lawrence-Tuapeka Ward;
 - the status quo has not achieved effective representation based on communities of interest; and
 - the inclusion of Wairepa-Waipapakā in the Balclutha Ward is not warranted because of insufficient evidence of community support.
- 6 The Council's decision was appealed by B Hayden.

Preliminary Matter for Determination

- 7 The Commission, on receiving advice of the appeal, resolved that before making a determination of the appeal it would meet with the Council and the appellant if he wished to be heard. The Commission resolved to meet the Council and the appellant in Balclutha on 14 February 2001

The Hearing

- 8 The Council was represented by the Mayor (Juno Hayes), and the Manager Regulatory Services (Murray Burns). Mr Hayden attended the hearing to speak to his appeal

The Council: The comments of Mr Hayes and Mr Burns may be summarised as follows:

- there had been strong representations for a Clutha Valley Ward in 1989;

- in 1995 a working committee of the Council had recommended a Clutha Valley Ward. The Council rejected the proposal. That decision was appealed to the Local Government Commission but the Commission upheld the Council's decision;
- the Council had undertaken consultation additional to that required by the statutory process;
- of the submissions received 42 supported the Council's proposals with 15 opposed. However most of those opposed were made in the mistaken belief that Tuapeka Mouth was to be transferred between wards which was not part of the Council's proposal;
- no objection to the proposed Clutha Ward had come from within the area of the proposed ward;
- there was no doubt that the Clutha Ward comprised a community of interest. The community concerned wished a separate ward because it wished separate representation;
- there was no question of the members currently representing the area of the proposed ward not doing a good job. The Council's concern, however, was to ensure effective representation for a specific community of interest;
- sitting councillors for the Balclutha Ward all came from the town of Balclutha. No rural members had been elected from the ward;
- it was not considered that the division of rural and urban would be seen as a precedent or spread to other wards. No such representations had come from other wards but had been consistently raised from within the area of the proposed ward;
- in response to a question as to whether it was fortuitous that the member:population ratios were fairly even, it was stated that no attempt had been made to "juggle" population between wards. The boundaries merely followed communities of interest;
- judgements about community of interest were made as a result of the consultative processes; and
- if the Commission's determination did not provide for a Clutha Ward, the Council would wish the other boundary alterations to proceed with the possible exception of that related to Kaka Point.

B Hayden: Mr Hayden's comments can be summarised as follows:

- he did not believe that an urban-rural split would be in the best interests of the District. The Council operates well with the existing ward structure;
- in the past the Council had avoided urban-rural factions and there would a risk that this would change; and
- in response to a question he said he thought the Clutha Valley community might be promoting change because the community covers a large area and they do not feel they are represented on the Council or that there is a voice from their area to be heard;

The Council in reply: In reply the Mayor stated that:

- he considered that the area of the proposed Clutha Ward had been fairly represented but was a significant community and wanted its own representative.

MATTERS FOR DETERMINATION

- 9 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.”

- 10 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

11 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.

12 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 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.

13 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.

14 Clutha District is a large area divided by a number of topographical features creating separate communities of interest. The Commission therefore considers that the District should be divided into wards in order to provide effective representation for the various communities of interest.

Appropriate Ward System

- 15 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.
- 16 The Commission emphasises that wards are for electoral purposes only, and that the Council is the entity to which members are elected.
- 17 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.
- 18 The Council was proposing two categories of change:
- the creation of a Clutha Ward; and
 - some smaller boundary adjustments between wards.
- 19 The Commission notes the arguments put forward by the Council for the Clutha Ward. What the Commission felt it had to be convinced about was that the residents of the area are not being effectively represented under the existing arrangements. The Commission did not feel so convinced. In regard to this the Commission noted that the Mayor confirmed at the hearing that there was no question that the members of the Council currently representing the area were not doing a good job, and also that the area had been fairly represented. The Commission has therefore decided that a Clutha Ward should not be established.
- 20 As far as other boundary adjustments are concerned the Commission is satisfied that the transfer of an area north of Wangaloa from the Bruce Ward to the Kaitangata-Matau Ward is necessary to better reflect actual communities of interest. The Council's proposal included other boundary alterations, including the transfer of the Kaka Point and Romahapa areas from the Kaitangata-Matau Ward to the Catlins Ward. The Commission considers that while these two alterations may have been appropriate in the context of the creation of a Clutha Ward they not necessarily appropriate if a Clutha Ward is not to be established. The Mayor stated at the hearing that the transfer of Kaka Point might not be appropriate in such a case.

Number of Members

- 21 Having decided that there will continue to be seven wards, the Commission is then required to determine what would be fair representation for the electors of the various wards.

- 22 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.
- 23 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 an appropriate approach for Clutha District.
- 24 Set out below is a table showing the number of members that each of the wards would be entitled to using total numbers of members ranging from 12 to 15.

Wards	Population	%	Members			
			12	13	14	15
Balclutha	5418	30.10	3.61	3.91	4.21	4.51
Kaitangata-Matau	2370	11.19	1.58	1.71	1.84	1.97
Clinton	1464	8.15	0.98	1.06	1.14	1.22
Catlins	1188	8.52	0.86	0.92	0.99	0.99
Bruce	3756	20.82	2.50	2.71	2.92	3.13
Lawrence-Tuapeka	1431	7.95	0.95	1.03	1.11	1.19
West Otago	2379	13.27	1.59	1.73	1.86	1.99
Total	17928	100.00				

- 25 The Commission concluded from this table, that the application of ward population shows that fairness can be achieved between the representation of each ward with a Council of 14 members. Therefore the Commission has concluded that the membership of the Council should total 14 members and the Mayor, with membership allocated to wards in the same manner as present.

DETERMINATION

- 26 Under section 101K of the Act, the Commission, determines that for the general election of the Clutha District Council to be held on 13 October 2001 -
- (1) Clutha District, as delineated on SO Plan No 23137 deposited with the Chief Surveyor of the Otago Land District, shall be divided into seven wards:
 - (2) those seven wards shall be:

- (a) the Balclutha Ward, comprising the area delineated on SO Plan No 23143 deposited with the Chief Surveyor of the Otago Land District;
 - (b) the Kaitangata-Matau Ward, comprising the area delineated on SO Plan No 23139 deposited with the Chief Surveyor of the Otago Land District;
 - (c) the Clinton Ward, comprising the area delineated on SO Plan No 23144 deposited with the Chief Surveyor of the Otago Land District;
 - (d) the Catlins Ward, comprising the area delineated on SO Plan No 23138 deposited with the Chief Surveyor of the Otago Land District;
 - (e) the Bruce Ward, comprising the area delineated on SO Plan No 23142 deposited with the Chief Surveyor of the Otago Land District;
 - (f) the Lawrence-Tuapeka Ward, comprising the area delineated on SO Plan No 23141 deposited with the Chief Surveyor of the Otago Land District; and
 - (g) the West Otago Ward, comprising the area delineated on SO Plan No 23140 deposited with the Chief Surveyor of the Otago Land District.
- (3) The Council shall comprise a Mayor and 14 members of whom:
- (a) four members shall be elected by the electors of the Balclutha Ward; and
 - (b) two members shall be elected by the electors of the Kaitangata-Matau Ward; and
 - (c) one member shall be elected by the electors of the Clinton Ward; and
 - (d) one member shall be elected by the electors of Catlins Ward; and
 - (e) three members shall be elected by the electors of the Bruce Ward; and
 - (f) one member shall be elected by the electors of the Lawrence-Tuapeka Ward; and
 - (g) two members shall be elected by the electors of the West Otago Ward.

27 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