



LOCAL GOVERNMENT COMMISSION

Determination

**of the membership and basis of election for the
general election of the Invercargill City Council to be
held on 9 October 2004**

BACKGROUND

- 1 The Invercargill City Council (“the Council”) undertook a review of the membership and basis of election of the Council and of community boards under sections 19H and 19J of the Local Electoral Act 2001 (“the Act”). On 19 August 2003 the Council resolved the initial proposed electoral arrangements to apply for the general election of the Council to be held in October 2004.
- 2 The Council elected at the 2001 general election comprises the Mayor and 12 members elected at large.
- 3 Elections were held for three community boards in the City at the 2001 general election. The boards and their membership are:
 - The Bluff Community Board – six elected members and two appointed members
 - The Bush Community Board – six elected members and one appointed member
 - The Otatara Community Board – six elected members and one appointed member.
- 4 Following its review, the Council proposed the following electoral arrangements as its initial proposal:

Council

The Council would comprise the Mayor, and 12 members elected at large.

Communities

The Bush and Otatara Communities would be abolished.

The Bluff Community would be retained. The Bluff Community Board would have five elected members and one appointed member.

- 5 The Council received 40 submissions to its initial proposal. The submissions covered a range of issues including:
- The Bush Community should be retained to provide effective representation for a rural area of the City
 - Community boards complement the at-large electoral system in the City
 - The Otatara Community Board should be retained
 - The reduction in the number of members of the Bluff Community Board is opposed
 - The existing electoral arrangements should be retained
 - A ward system should be reinstated, with nine councillors elected
 - The boundaries of the Bush Community should be expanded to encompass all rural areas of the District, with a Otatara Community retained (with altered boundaries) and the Bluff Community abolished
 - The Council's proposal does not take into account the rural interests of the City
 - The Council should be reduced in size to ten members plus the Mayor and the Bush Community Board retained
 - The Council should be reduced in size to ten members plus the Mayor and the Bush and Otatara Community Boards abolished.
- 6 Following consideration of the submissions, the Council confirmed its initial proposal as its final proposal.
- 7 Twenty-two appeals were received against the Council's final proposal. The subject matter of the appeals included the following:
- The Council's decision to abolish the Bush and Otatara Community Boards is appealed
 - The Bush Community Board should be retained - it represents a rural community of interest requiring specific representation
 - The current electoral arrangements should be retained
 - The Council's decision to reduce the number of members of the Bluff Community Board is appealed – the Board should retain its existing level of membership
 - The Otatara Community Board should be retained
 - Abolishing the Bush and Otatara Community Boards would effectively remove any formal structure representing rural interests on the Council
 - The number of members elected to the Council should be reduced by two
 - A ward system should be reinstated, comprising a rural ward and an urban ward; and councillor numbers should be reduced.

Hearing

- 8 The Commission, on receiving advice of the appeals, decided that it would meet with the Council and the appellants if they wished to be heard. The hearing was held in Invercargill on 2 February 2004.
- 9 The Council and ten appellants appeared before the Commission at the hearing. The Council outlined its proposal, and the appellants spoke to their submissions.

MATTERS FOR DETERMINATION

- 10 The statutory provisions in respect of these appeals and objections 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.*

- 11 When applying the provisions detailed above, the principles of the Act (set out in section 4 of the Act) need to be taken into account, particularly the principle of fair and effective representation for individuals and communities.

Consideration by the Commission

- 12 The Commission considers that when deciding the basis of election of the Council, i.e. whether the Council should be elected at large, or by wards, or partly by wards and partly at large, the criterion to be met within the terms of section 19T is the provision of effective representation of the various communities of interest within the City. The Commission must determine which communities of interest or groupings of communities of interest require representation. If wards are considered to be appropriate, then any particular ward may encompass one or more communities of interest.
- 13 The Commission's first responsibility was to decide whether or not the City 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 City.
- 14 The Council's initial and final proposals were for a continuation of the at-large basis of election, which has applied in the City since the 1992 local elections. While several submissions and appeals suggested that the City should be divided into wards for effective representation of communities of interest, the Commission is satisfied that a continuation of the at-large basis of election in the City is appropriate to provide effective representation for its communities of interest. In reaching this decision the Commission took into account:
- the compact size of the City
 - the interconnectedness of the City's communities
 - discussion group responses, and survey information commissioned for the Council by the National Research Bureau which showed significant majority support for an at-large basis of election
 - the fact that there was no evidence presented to the Commission indicating a groundswell of support for a return to a ward system of election.

Appropriate Membership

- 15 Having decided that the Council would be elected by the electors of the City as a whole, the only other matter to be determined by the Commission relating to the Council's representation is the number of councillors to be elected to the Council.
- 16 Excluding the Mayor, the Council currently has 12 members. The Council proposed to retain this level of membership, while some submitters and appellants sought a reduction in the size of the Council.
- 17 The Commission considers that if the level of existing community board coverage were to continue then a case could be made for a reduction in the number of Council members. However, the Council has proposed that two of the three existing community boards should be disestablished – the Commission's decision in respect of this element of the Council's proposal is discussed below. In the context of the Council's proposal to disestablish the Bush and Otatara Community Boards the Commission is of the view that a Council comprising 12 members and the Mayor would be appropriate at this time to provide effective representation for the residents of the City.
- 18 Having considered all aspects of the matter of Council representation the Commission has concluded that the membership of the Council should total 12 members elected at-large, and the Mayor.

Community Boards

- 19 The Council has proposed that the Bush and Otatara Community Boards be disestablished, while the Bluff Community Board would continue in existence with a reduced membership. A majority of submitters and appellants objected to the disestablishment of the Bush Community Board, while some also objected to the disestablishment of the Otatara Community Board. The Bluff Community Board appealed the reduction in its membership numbers.
- 20 Prior to the Council determining its initial proposal, discussion groups were asked for their views on community boards. Approximately 64% of respondents favoured community boards generally, while approximately 28% considered that there should not be community boards in the City. In an NBR telephone survey undertaken for the Council 42% of respondents considered that there should be three community boards with a further 32% advising that they were happy for the Council to decide.
- 21 In its presentations to the Commission at the hearing the Council brought forward the following matters in support of its final proposal with respect to the existing communities of the City:
 - the City has one of the smallest districts of any territorial authority in New Zealand
 - residents of all areas of the City are able to vote for all councillors under the existing at-large basis of election

- councillors are readily accessible to all residents
- other than for the Bluff Community Board which has some responsibilities in relation to resource consents and the Bluff Concept Plan, the existing community boards are purely advisory and the Council has found no need to delegate functions to them
- it is not good governance to duplicate and create less effective structures than what can be achieved through direct contact with the governing body
- the Otatara and Bush areas have been subject to land subdivision for small rural and lifestyle properties and whether measured by the occupations of the residents or the classification of land, less than 10% of electors or properties in both areas have rural or rural-related occupations or classifications (maps were presented to the Commission showing building consents issued across the City, land-use patterns, and the proximity of the Bush and Otatara areas to the City Centre).
- residents prefer to deal directly with the Council.

Otatara Community Board

- 22 In addition to its general comments, as outlined above, the Council brought forward the following arguments in support of its proposal to disestablish the Otatara Community Board:
- the Otatara area does not have an identifiable community of interest that is separate from the rest of Invercargill City
 - the area has significant recreational facilities (e.g. the Sandy Point Recreational Reserve and Oreti Beach) and natural features which are of importance to, and utilised by, all residents of the City – by necessity these facilities are managed by the Council for the benefit of all residents of the City
 - since the constitution of the Council in 1989 the Otatara area has become an integral part of the City, and is becoming more urbanised as residents seek lifestyle opportunities
 - the community board meets in the Council offices and there is a low level of interest by the public in its meetings
 - the continued existence of the community board does not promote good local government.
- 23 The Otatara Community Board arguments, as presented to the Commission are summarised as follows:
- Otatara is a distinct and historical community
 - the community board has worked well there for many years, including before the constitution of Invercargill City in 1989
 - the district plan recognises the unique features existing in Otatara, e.g. native bush and sand dunes
 - the Council gained no mandate from its community consultation to effect the changes that it proposed.
- 24 In considering this matter the Commission noted that there were relatively few submissions or appeals specifically seeking the retention of the Otatara Community Board. Having considered all the information presented to it the

Commission is satisfied that the issues of importance to the Otatara area can effectively be dealt with at the Council level. The Otatara area contains a significant number of recreational facilities which are of City-wide importance and which are already managed by the City. The Commission is of the view that there is no need to retain a community board in the area to deal with the other local issues that arise. The Otatara area falls within a 10 kilometre radius of the City Centre and residents have good access to Council facilities and to their elected Council representatives. The Commission has therefore determined that the Otatara Community Board shall be dissolved.

Bush Community Board

- 25 The Council brought forward the following arguments in support of its proposal to disestablish the Bush Community Board:
- the Council rejects the Board's argument that the Board represents the rural representation of the City and that the Councillors don't understand rural issues
 - the Bush area does not have an identifiable community of interest that is separate from the rest of Invercargill City
 - the Board is unable to be effective in its role because of its emphasis on rural issues, which count for a minor percentage of the total interest of the residents of the area
 - since the constitution of the Council in 1989 the Bush area has become an integral part of the City, and is becoming more urbanised as residents seek lifestyle opportunities
 - parts of the Bush area are now effectively encompassed within the urban area of the City with the increasing spread of population, housing developments and subdivisions
 - there is nothing specific or different in the Bush Ward to the issues facing other parts of the City
 - the area of the community has no internal focus, e.g. there are no local shopping facilities – residents utilise the facilities of the urban area of the City to meet their day-to-day needs
 - the community board meets in the Council offices and there is a low level of interest by the public in its meetings
 - only one election for the board has been required since its inception in 1990 – for two other elections only six candidate nominations came forward, while for the other two elections only five nominations were received.
 - the continued existence of the community board does not promote good local government.
- 26 The Bush Community Board and a number of other appellants presented the following arguments in support of the retention of the board:
- the fact that urban residents of the City have moved to rural areas of the City for lifestyle reasons does not mean that the rural areas are becoming urbanised.
 - The retention of the communities is necessary to counter the imbalance of urban against rural perceptions

- The Council's decision to abolish the Board is against the spirit of the Local Government Act 2002
- The Board plays an active and effective role in its community
- The Board has sought enhanced delegated authority but its requests have always been refused by the Council
- The current schools review recognises the community of interest of the Bush area
- The Council's consultation process clearly showed that a significant majority of those surveyed favoured the retention of the existing community boards
- The public is satisfied with the service that it receives from the Board
- People don't stand for election because they are happy with the job done by the existing members of the Board
- The Board has been effective in making the Council consider rural issues
- The Board provides support to the rural people in the Kew area of the City, which is not serviced by a community board
- Rural people pay disproportionately for Council services
- Bush people have different interests from the urban residents of the City.

27 The Commission has carefully considered and reviewed the information presented to it regarding the Bush Community Board. The Commission notes that the Bush area has some sense of difference from the urban centre of the City because of its peri-urban and rural-lifestyle nature. However, like the Otatara community, the boundaries of the Bush community fall within a 10 kilometre radius of the City centre, and its residents rely heavily on the urban area of the City for essential services and employment. The Commission noted that there are no shopping facilities available within the area of the Bush Community and that there are only a small number of economic farming units in the area. Subdivision of the area for lifestyle blocks is likely to continue in the future.

28 Taking all the information presented to it into account, the Commission is not satisfied that the retention of the Bush Community Board is necessary for the effective representation of the residents of the Bush area. The Commission is of the view that a Council comprising 12 members and the Mayor will be able to effectively deal with local issues of concern to the residents of the Bush area. It has therefore determined that the Bush Community Board shall be dissolved.

Bluff Community Board

29 The Council proposed that the Bluff Community Board should continue in existence, but with its numbers reduced from six elected members and two appointed members to five elected members and one appointed member. A number of appellants argued that if the Bush and Otatara Communities were to be abolished the Bluff Community should also be abolished as there is little to differentiate it from the two other communities. The Commission is of the view that the Bluff area is a distinct community in the context of the City. It is somewhat physically separated and distant from the business centre of the City, has a local sense of identity as an historic and significant port town, has a

clearly established local infrastructure, and has a number of local issues that are peculiar to it. A significant proportion of its population works in the local industries relating to the port, tourism and fishing. The Bluff Community Board has been delegated certain responsibilities relating to the implementation of the Bluff Concept Plan.

- 30 Having considered the information presented to it, the Commission is satisfied that the Bluff Community Board plays an important local role in its community, and that it complements the district-wide focus of the Council. The Bluff area has particular local issues and a distinct local community of interest, which in the view of the Commission warrants the continuation of the Board at this time.
- 31 The Council's proposal to reduce the number of members of the Bluff Community Board was objected to and appealed by the Board. The Council was of the view that the existing level of membership represents excessive governance for the population and issues involved. The Board considered that a reduction in its membership at this time would adversely affect the Board's effectiveness and render it less representative at a time when it had a significant workload. After a full consideration of the information presented to it, and taking into account the functional delegations made by the Council to the Board, the Commission is satisfied that a Bluff Community Board comprising six members (five elected members and one appointed member) will provide effective representation for its community.
- 32 The Council did not propose that the Bluff Community should be subdivided for electoral purposes. The Commission is satisfied that subdivisions of the community are not required for effective representation.

GENERAL COMMENTS

- 33 The Commission encourages the Invercargill City Council to review the delegations issued to the Bluff Community Board. To maximise the effectiveness of the contribution of community boards to local governance the Commission is of the general view that territorial authorities should consider providing the boards with a comprehensive set of delegated functions. The Commission considers that three current examples of effective community board delegations are:
- The delegations for the Otago Peninsula Community Board, as detailed in the Commission's determination of 11 October 2001, and
 - The delegations issued by the Thames-Coromandel District Council and Christchurch City Council for the community boards constituted in their districts.

DETERMINATION

- 34 Under section 19R of the Act, the Commission determines that for the general election of the Council to be held on 9 October 2004 -
- (1) Invercargill City as delineated on S.O. Plan 11471 deposited with Land Information New Zealand, shall not be divided into wards;
 - (2) The Council shall comprise the Mayor, and 12 members who shall be elected by the electors of the City as a whole:
 - (3) The Bush Community shall be abolished, and the Bush Community Board shall be dissolved.
 - (4) The Otatara Community shall be abolished, and the Otatara Community Board shall be dissolved.
 - (5) There shall be a Bluff Community, comprising the area as delineated on S.O. Plan 11472 deposited with Land Information New Zealand.
 - (6) The membership of the community board for the Bluff Community shall be five elected members and one appointed member.
- 35 As required by section 19W(c) of the Act, the boundaries of the Bluff Community coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes.

THE LOCAL GOVERNMENT COMMISSION

Grant Kirby	(Chairman)
Linda Constable	(Commissioner)
Kerry Marshall	(Commissioner)

7 April 2004