



LOCAL GOVERNMENT COMMISSION

Determination

of the membership and basis of election for the
general election of the Mackenzie District Council to
be held on 9 October 2004

BACKGROUND

- 1 The Mackenzie District 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 22 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 10 members and the Mayor. The 10 members were elected as follows:

Twizel Ward	3 members
Tekapo Ward	2 members
Fairlie Ward	4 members
Albury Ward	1 member
- 3 Elections were held for three community boards in the District at the 2001 general election. The boards and their membership are:
 - The Twizel Community Board – six elected members and two appointed members
 - The Tekapo Community Board – six elected members and two appointed members
 - The Fairlie Community Board – five elected members and two appointed members.
- 4 Following its review, the Council proposed the following electoral arrangements as its initial proposal:

Council

The Council would comprise the Mayor, and 8 members elected as follows:

Pukaki Ward	4 members
Opuha Ward	4 members

Communities

The Council proposed to abolish the three community boards.

- 5 The Council received 143 submissions to its initial proposal. The submissions covered a range of issues including:
 - Opposition to the abolition of community boards
 - Support for the abolition of community boards
 - Support for a reduction in the number of councillors to 8
 - Support for the areas of the two proposed wards
- 6 Following consideration of the submissions, the Council confirmed its initial proposal as its final proposal.
- 7 Thirty-six appeals were received against the Council's final proposal. All appeals supported the retention of community boards, either across the district or in respect of specific communities. One appeal sought the retention of separate Twizel and Tekapo Wards.

Hearing

- 8 The Commission, on receiving advice of the appeals and objections, decided that it would meet with the Council and the appellant if they wished to be heard. A quorum of the Commission, comprising Commissioners Grant Kirby and Linda met with the Council and the appellants in Fairlie on 13 February 2004.
- 9 The Council and 14 appellants appeared before the Commission at the hearing. The Council outlined its proposal, and the appellant spoke to his submission.

MATTERS FOR DETERMINATION

- 10 The statutory provisions in respect of these appeals and objections are contained in sections 19R, 19I 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 parts 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 District. 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 Section 19V provides that the electors of the various wards within the District must receive fair representation. Section 19V(3) provides that the requirements of section 19V(2) may only be set aside in the circumstances where the Commission considers that island or isolated communities require specific representation. The provisions of section 19(V) which are relevant to the Commission's consideration are subsections (1), (2) and (3), as follows:

19V. Requirement for fair representation and other factors in determination of membership for wards, constituencies, and subdivisions

- (1) *In determining the number of members to be elected by the electors of any ward or constituency or subdivision, the territorial authority or regional council and, where appropriate, the Commission must ensure that the electors of the ward or constituency or subdivision receive fair representation, having regard to the population of every district or region or community and every ward or constituency or subdivision within the district or region or community.*
- (2) *For the purposes of giving effect to subsection (1), the territorial authority or regional council and, where appropriate, the Commission must ensure that the population of each ward or constituency or subdivision, divided by the number of members to be elected by that ward or constituency or subdivision, produces a figure no more than 10% greater or smaller than the population of the district or region or community divided by the total number of elected members (other than the mayor, if any).*
- (3) *Despite subsection (2),—*
- (a) *if the territorial authority or the Commission considers that the effective representation of communities of interest within island communities or isolated communities situated within the district of the territorial authority so requires, wards and subdivisions of a community may be defined and membership distributed between them in a way that does not comply with subsection (2):*
- (b) *if the regional council or the Commission considers that effective representation of communities of interest so requires, constituencies may be defined and membership distributed between them in a way that does not comply with subsection (2).*

- 14 The Commission notes that any preliminary ward arrangements determined to reflect communities of interest might need to change to ensure that the population to member ratio requirement of section 19V(2) is met, unless it is satisfied that island or isolated communities require separate representation to achieve effective representation.
- 15 The Commission's first responsibility was to decide whether or not the District should be divided into wards. If wards were to apply it then had to determine the number and boundaries of those wards to provide effective representation of communities of interest within the District.
- 16 The Mackenzie District covers a large and diverse area. It includes three principal townships, each separated by large distances and expansive rural areas. Topographic features and distance play a large part in defining communities of interest, making them very distinct. The Commission came to the view that, because of the size and diversity of the District, effective representation of communities of interest could only be achieved by councillors being elected on a ward basis. In reaching this decision the Commission noted that there were no submissions or appeals objecting to this element of the Council's proposal.

Appropriate Ward System and Membership

- 17 Having decided that the basis of election would be the ward system, the Commission then considered the number and boundaries of wards necessary to ensure the effective representation of the various communities of interest in the District. The Commission does not consider that section 19T envisages that individual communities of interest need separate representation. Its sole requirement in this regard is that the representation of communities of interest must be effective.
- 18 The Commission emphasises that wards are for electoral purposes only, and that the Council is the entity to which members are elected.
- 19 In the Commission's view, where a district is to be divided into wards, there should be such number of wards as is necessary and consistent with the concept of effective representation of various communities of interest. In this regard the requirements of section 19V(2) also need to be taken into account.
- 20 The Council has proposed that:
- the existing Twizel and Tekapo Wards be combined into a Pukaki Ward; and
 - the existing Fairlie and Albury Wards be combined into a Opuha Ward.

The two wards would be almost identical in population.

- 21 The Commission is satisfied that the wards proposed by the Council effectively define communities of interest requiring separate representation on the Council. In coming to that conclusion, the Commission considered the distinct nature of each community and the geographical characteristics of the

District. It particularly noted the fact that Burke's Pass (which lies on the boundary between the two wards) constitutes a distinct divide, both physically and in terms of the landscape.

- 22 One appellant sought the retention of separate Twizel and Tekapo Wards. The Commission did not favour such an arrangement for the following reasons:
- On either a six member or an eight member council this would have resulted in a Tekapo ward electing one member to the Council. The Commission did not consider that one member for a ward this size would result in effective representation:
 - Under either a six or eight member council a ward based on the boundaries of the existing Tekapo Ward would not have complied with the requirement of section 19V(2) of the Act for the population to membership ratio to fall within a +/-10% range. Boundary adjustments to ensure there was compliance would have resulted in the transfer of large areas to or from other wards. Because of the topography dividing the Tekapo Ward from other wards, this could have been achieved by dividing communities of interest in an artificial manner:
 - The Commission did not consider that non-compliance with section 19V(2) on the grounds of isolation was justified as the ward as a whole appears to be no more isolated than other wards.

23 The Commission then had to determine how many members the Council should comprise. In the context of its determination regarding community boards in the District, detailed later in this document and taking into account the views expressed in submissions and appeals the Commission has determined that the total membership of the Council shall comprise six members and the Mayor.

24 The ward and membership arrangements determined by the Commission are therefore as follows:

Ward	Members	Population per member	Ward Population (2001 Census)
Pukaki	3	615	1845
Opuha	3	624	1872

(The population per member falls within the range of 620+/-10% (558 to 682). The District's total usually resident population at the time of the 2001 Census was 3717.)

Community Boards

- 26 The Council proposed that the three existing Community Boards should be abolished. This element of the Council's final proposal was almost the sole focus of appeals.
- 27 The Council gave the following reasons for this decision in the public notice of its final proposal:

- It is no longer appropriate to have two tiers of local government for a district with a population of 3717;
- The current arrangements result in one elected member for every 133 people. The Council's proposal would still mean one member for every 413 people;
- A simpler more efficient form of local government is required;
- The financial costs of supporting community boards are significant for the district;
- The new Local Government Act obliges the Council to consult more with the Community and this can be achieved through less formal and more efficient ways than through community boards; and
- The Council has changed its arrangements for managing community facilities, limiting the role of community boards in this area to suggesting small discretionary improvement works.

28 It is clear from the submissions made to the Commission by those concerned about the proposed disestablishment of the community board system in the District that community boards are considered to be effective advocates for their local communities. At the hearing the Commission was informed of a number of examples where community boards had enabled local issues to be resolved or brought to the attention of the Council.

29 Given the size and diversity of communities of interest in the District, the Commission is satisfied that the retention of community boards is desirable to provide a means for local issues to be addressed, and to complement the District-wide perspective of the Council. The Council's view that community boards are a barrier to effective Council communication with communities and a duplication of resources can be addressed in a number of ways. Firstly, through better definition of the role of councillors, community board members and council officers in respect of community board interactions with the Council and its staff and for the processes for engaging with communities. Secondly, through attention to administrative processes and Commission arrangements which are beyond the scope of this Commission.

30 The Commission considered that each Community Board should each have four elected members and one appointed member. The Commission considers that this will provide effective representation for the residents of each community. The Commission is satisfied that subdivisions of the communities are not required for effective representation.

GENERAL COMMENTS

31 The Commission encourages territorial authorities that have community boards constituted within their areas to review the functions delegated to community boards. To maximise the effectiveness of the contribution of community boards to local governance the Commission is of the view that territorial authorities should consider providing the boards with a

comprehensive set of delegated functions. The Commission considers that two 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

- 32 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) The Mackenzie District as delineated on S.O. Plan 18101 deposited with Land Information New Zealand, shall be divided into two wards;
 - (2) Those two wards shall be -
 - (a) The Pukaki Ward, comprising the area delineated on S.O. Plan No. 334955 deposited with Land Information New Zealand;
 - (b) The Opuha Ward, comprising the area delineated on S.O. Plan No. 334958 deposited with Land Information New Zealand;
 - (3) The Council shall comprise the Mayor and 6 members who shall be elected as follows -
 - (a) three members shall be elected by the electors of the Pukaki Ward; and
 - (b) three members shall be elected by the electors of the Opuha Ward.
 - (4) There shall be three communities as follows:
 - (a) The Fairlie Community, comprising the area as delineated on S.O. Plan No 335474 deposited with Land Information New Zealand;
 - (b) The Tekapo Community comprising the area as delineated on S.O. Plan No. 18103 deposited with Land Information New Zealand
 - (c) The Twizel Community, as delineated on S.O. Plan No. 18136 deposited with Land Information New Zealand.
 - (5) The membership of the community board for each community shall be as follows:
 - (a) The Fairlie Community Board shall comprise four elected members and one member of the Council representing the Opuha Ward and appointed to the community board by the Council;

- (b) The Tekapo Community Board shall comprise four elected members and one member of the Council representing the Pukaki Ward and appointed to the community board by the Council; and
- (c) The Twizel Community Board shall comprise four elected members and one member of the Council representing the Pukaki Ward and appointed to the community board by the Council.

33 As required by sections 19T(b) and 19W(c) of the Act, 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

Grant Kirby (Chairman)
Linda Constable (Commissioner)

7 April 2004