



LOCAL GOVERNMENT COMMISSION

Determination

of representation arrangements to apply for the election of the
Rotorua District Council to be held on 13 October 2007

BACKGROUND

1. The Rotorua District Council (the Council) elected at the 2004 local election comprises the Mayor and 12 councillors elected by 4 wards. There are no existing community boards in Rotorua District. The 12 councillors were elected as follows:

Wards	Population	No. of councillors per ward	Population per councillor	Deviation from the district average population per councillor	Percentage deviation from the district average population per councillor
North	16575	3	5525.00	+152.00	+2.83%
West	16773	3	5591.00	+218.00	+4.06%
East	15240	3	5080.00	-293.00	-5.45%
South	15888	3	5296.00	-77.00	-1.43%
TOTALS	64476	12	5373.00		

Note: the population figures are taken from the **2001** census (usually resident count) in accordance with section 19X(1)(a) of the Act.

2. In February 2006 the Council undertook a review of the representation arrangements for the Council and of community boards under sections 19H and 19J of the Local Electoral Act 2001 ("the Act"). On 28 March 2006 the Council resolved its initial proposal for representation arrangements to apply for the 2007 local election. This was publicly notified on 7 April 2006.
3. The Council's initial proposal was as follows:
 - (a) that there be 12 councillors elected at large, plus the Mayor;
 - (b) that there be no wards; and
 - (c) that there be no community boards.
4. The Council received 16 submissions (plus one late one) on its initial proposal. Of these, 8 submissions (including the late submission) favoured the retention of wards, while 7 favoured the abolition of wards. 9 submissions commented on the number of councillors, with 7 of these favouring the status quo of 12 councillors. 8 submissions commented on the establishment of community boards, with 6 of these favouring their establishment.

5. Having considered the submissions received, the Council resolved on 26 June 2006 to amend its initial proposal. Its final proposal was publicly notified on 30 June as follows:
- that there be no change to the current representation for Council, comprising twelve councillors elected from four wards (3 elected from each existing ward) and the Mayor elected at large; and
 - that there be no community boards.
6. A total of thirteen objections or appeals were lodged against the final proposal. The issues raised were as follows:

Appellant/objector	Main Issues
William Brislen	<p>Objects to the Council's decision to remain with a ward based system:</p> <ul style="list-style-type: none"> There is significant support for an at-large system. This approach is undemocratic.
Deane Balme	<p>Appeals the decision not to scrap the ward system and to remain with the status quo:</p> <ul style="list-style-type: none"> Several Council members do not reside in the wards they represent; councillors should be either resident or own property in the wards they represent. There is public support for an at-large system.
John Cole	<p>Appeals the decision to remain with 4 wards and 3 councillors per ward (initial submission indicates preference is for 12 wards with 1 councillor each).</p> <ul style="list-style-type: none"> The Council has failed to take communities of interest into account when setting ward boundaries.
John Dyer	<p>Appeals the decision to remain with a ward-based system. Also appeals the decision not to have any community boards (would like a Rotorua Lakes community established).</p>
R A Deverson	<p>Objects to the decision to remain with a ward-based system:</p> <ul style="list-style-type: none"> The wishes of the majority have not been respected. Present councillors do not identify with their wards. A ward system does not ensure good quality candidates in each ward. Ward loyalties should not play any part in decision-making for the district. <p>Proposes instead that:</p> <ul style="list-style-type: none"> The total number of councillors including the mayor should be reduced to 10 Councillors should be elected at large Agrees that there should be no community boards.
Trevor Newbrook	<p>Objects to the Council's decision to remain with a ward based system:</p> <ul style="list-style-type: none"> The Council ignored 72% support for district-wide voting. The Council's reasoning in the public notice is inadequate The current ward system does not support democracy; the wards do <u>not</u> represent any particular community in the district, which is simply divided into quarters There is no evidence to suggest either rural or urban areas would be disadvantaged under a district-wide vote. At the last election, a number of candidates did not live in the wards they stood for; "ward shopping" is about getting elected, not representing a community of interest Several ratepayer/community groups support an at-large system

Richard Wilson	<p>Objects to the Council's decision to remain with a ward based system. Supports district-wide voting.</p> <ul style="list-style-type: none"> • Ward based system obsolete as councillors can live where they like & represent whichever ward they like. • There is majority support for an at-large system. <p>Objects that Community Boards are not being established:</p> <ul style="list-style-type: none"> • They will have some members living in the area they represent; they will provide better representation; • Community boards will work in partnership with Council; • The cost of community boards is nominal compared with the total rate take.
Rotorua District Community Association (Chair is Richard Wilson)	<p>See Richard Wilson's submission above. Same points.</p>
Scotty Watson	<p>Objects to the retention of a ward-based system; supports district wide voting.</p> <ul style="list-style-type: none"> • There is majority support (72%) for an at-large system • District wide voting would ensure only those with the most support end up in office • Many of the present councillors campaigned for district wide voting before the last election
Barbara Gatley	<p>Objects to keeping the ward system:</p> <ul style="list-style-type: none"> • Majority support is with a district wide system • Candidates representing wards do not always live there • The ward system provides voters with little or no choice, and does not provide the best available people on the Council
Lyll Thurston	<p>Objects to retaining the ward system:</p> <ul style="list-style-type: none"> • The majority of those consulted are opposed to wards • Effective councillors have shown a district-wide approach to issues, hence the ward system has become a nonsense in terms of effectiveness and representation • Efforts to establish an electorate of interest within the 4 wards have failed; few if any councillors live in their ward • The rural community is not disadvantaged; some of the best contributors to council have been rural men and women. Rotorua also has a history of rural Mayors.
Keith Dooley	<p>Objects to retaining the ward system:</p> <ul style="list-style-type: none"> • Voters are not in a position to have any influence on policy. • Voters have already indicated their desire to have an "at large" system <p>Objects to the number of councillors remaining at 12</p> <ul style="list-style-type: none"> • 9 councillors elected at large should be adequate to run Rotorua City.
David Gatley	<p>Objects to retaining a four-ward system:</p> <ul style="list-style-type: none"> • an arbitrary 4-ward system seems irrelevant to modern planning processes when developments in one area often impact on others; • it is more democratic to be able to choose from a general pool of candidates rather than just those selected for each ward; • a recent survey showed a clear demand for change.

HEARING

7. The Commission met with the Council and eight appellants or objectors who had expressed a desire to be heard by it, in Rotorua on 23 August 2006. The Commission also invited those persons who had made submissions in support of the Council's final proposal to appear before it, one of whom wished to do so.
8. The Council was represented by the Mayor, Kevin Winters, and the Council's Manager, Corporate Administration, Peter Christophers. The appellants appearing before the Commission were -
 - Bill Brislen
 - Deane Balme
 - John Dyer
 - R A Deverson
 - Trevor Newbrook
 - Richard Wilson
 - Scotty Watson
 - Keith Dooley

The submitter appearing in support of the Council's final proposal was J E Keaney.

MATTERS RAISED IN APPEALS AND AT THE HEARING

9. The main arguments presented in support of the Council's proposal were that:
 - a. 12 councillors are needed to provide effective representation for the district due to size (area and population).
 - b. There is general community support for the retention of 12 councillors.
 - c. There was support from submitters for the continued system of ward representation.
 - d. There is a need to ensure a good mix of urban and rural representation, as the district is 80% urban and 20% rural. The district does not want 12 urban councillors, and it is difficult for rural residents to become known in the urban area. The existing 4 ward system recognises the urban/rural diversity and ensures effective representation across the district. Wards provide a diverse group of people on the Council, as at present.
 - e. 12 councillors elected from existing 4 wards provide fair representation for communities.
 - f. Councillors can align themselves to communities under a ward-based system.
 - f. Ward councillors understand they must act in the best interests of the district.
 - g. It is easier for voters to evaluate candidates, if choosing from only a few (per ward) than to have to evaluate a number of candidates for the entire district.
 - h. Council considered that a distinct community of interest did not exist for the area submitted for establishing a community board. Rotorua District is considered a single community of interest.
 - i. Community boards would not improve the efficiency and effectiveness of Council.

10. The main arguments presented by appellants in support of their appeals were that:
- a. There is significant public support for an at-large rather than ward based electoral system, including from several ratepayer/community groups.
 - b. The current ward system does not support democracy; the wards do not represent any particular community in the district.
 - c. There is no evidence that either rural or urban areas would be disadvantaged under a district-wide vote.
 - d. Present councillors do not identify with their wards.
 - e. The ward-based system is obsolete, as councillors can live where they like and represent whichever ward they like. Councillors should either reside or own property in the wards they represent.
 - f. The ward system provides voters with little or no choice, and does not provide the best available people for Council. District-wide voting would ensure only those with the most support end up in office.
 - g. Council has failed to take community of interest into account when setting ward boundaries.
 - h. Community boards will have some members living in the area they represent; they will provide improved representation.
 - i. Community boards will work in partnership with Council, providing more efficient, informed decision-making.
 - j. The cost of community boards is nominal compared with the total rate take.
 - k. A Rotorua Lakes community board would have a stronger ability to ensure major improvements to the lakes can occur. Ratepayer groups do not have any power of representation.

MATTERS FOR DETERMINATION

11. The statutory provisions setting out the scope of the Commission's determination of Rotorua District Council's representation arrangements 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.*

12. 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

13. It was apparent to the Commission from the written and oral evidence presented that the two main issues of contention were, first, whether to remain with a ward-based system of election or move to an at-large system of election, and second, whether or not to establish community boards. Other issues, such as ward boundaries and the number of councillors, did not generate nearly as much interest amongst those who expressed an opinion.

The Council

Requirements for effective representation

14. In reviewing the Council's decisions under section 19H of the Act, the Commission is required to ensure that representation arrangements ensure effective representation for communities of interest. This is provided for by section 19T of the Act.
15. The requirement to ensure effective representation for communities of interest applies when deciding whether the Council should be elected at large, or by wards, or partly at large and partly from wards.
16. In considering this question, the Commission noted that Rotorua District is a large district covering 2,708 square kilometres, and is New Zealand's fourth largest district by population. It contains a diversity of geographical characteristics, including a large urban area centred around the southern shore

of Lake Rotorua, and an extensive rural area, including lakes, geothermal activity, forestry, and farming areas. The Commission agrees with the argument that this diversity means that a good mix of urban and rural representation is needed. In particular, rural interests need to be safeguarded, as the district's population is 80% urban and only 20% rural. It is more challenging, district wide, for rural residents to become known in the urban area. The current ward system provides for a diverse group of people on the Council. In addition, councillors can still align themselves to communities under the ward system.

17. Rotorua District also comprises a range of distinct communities. The Council has said it considers Rotorua District to be a single community of interest. However, the Commission was able to identify a number of distinct communities at different levels within the district. There are, for instance, urban communities, as represented by the Rotorua District Community Association, and rural communities, such as Reporoa, Ngakuru, Mamaku and Kaharoa, to name a few. The Commission believes that these distinct communities remain best served by separate (ward-based) representation.
18. The Commission noted the contention that there is public support for an at-large method of election. Appellants and some submitters pointed to two public surveys whose results indicated support for the abolition of wards. However, as the number of responses to these surveys was small relative to the number of potential respondents, the Commission considers that this does not indicate a real groundswell for change.
19. It was also submitted that currently, rural people do not receive adequate representation. We find there is insufficient evidence to show that Rotorua District residents do not have reasonable access to their elected members under the current ward-based system. While there are no ward clinics as such, generally one or more of the ward councillors attends the various ratepayer and residents meetings. In addition, all councillors normally attend consultation meetings, some of which are held at locations other than at the Council offices (for example, Ohinemutu Marae for the consultation on Maori wards).
20. The possibility of a mixed system of representation, that is, some members elected at large and others on a ward basis, was raised at the hearing. It was suggested that there could be 3 or 4 members elected from wards, and 8 elected at large. The Commission believes, however, that electors would remain better represented under a ward-based system which ensures that each ward is represented by three members. Under a mixed system, this would reduce to 1 or 2 members.
21. In summary, the Commission believes that the size and diversity of the district, the existence of distinct communities, and the advantages for electors in terms of the number of representatives (see above) means that a ward system remains the most appropriate.
22. Having decided that there should continue to be wards, the Commission then considered the number and boundaries of wards. As mentioned above, the focus of most appellants' concerns was the basis of election. However, one appellant suggested that the district should be divided into 12 wards, with a single member for each ward. The appellant did not identify any specific communities, or boundaries of those communities. The Commission notes

that this appellant was also the sole appellant against the Council's 2001 representation review. We concur with the 2001 Commission's comment that the 12 ward proposal lacks any detail which would enable the Commission to satisfy itself concerning community of interest considerations. A division of the district into 12 wards would inevitably split communities of interest and would not provide for effective representation.¹

23. Nonetheless, the Commission acknowledges the concerns expressed by the appellant and others that the existing wards of the district do not adequately reflect communities of interest within the district. As discussed above, there are a number of distinct communities across the district. However, the ward boundaries themselves appear to be based on population rather than community of interest. The Council has contended that these boundaries were originally set by the Local Government Commission in 1989. While it is possible that the boundaries were recommended to the then Commission by the Council, existing boundaries should not, in any event, prevent the Council from exploring alternative ward options that would better reflect existing communities of interest. While we appreciate that local authorities need to meet fair representation requirements under the Act, the effective representation of communities of interest must also be given appropriate and thorough consideration.
24. In the absence of any strong movement for change, the Commission has decided that the existing number of wards and ward boundaries should be retained for the 2007 local elections.

Requirement for fair representation of electors

25. The Commission is also required to ensure fair representation of the electors of each ward or subdivision, as provided for by s.19V of the Act.
26. The Council's final proposal is to continue with 12 members. This conforms to the requirements of s.19(a) of the Act which sets upper and lower limits of 6 and 30 members, including the Mayor. It also meets the +/- 10% rule, as set out in s.19V(2) of the Act. Looking at 2005 population figures, which estimate the district's total population to have risen to 67,600, the proposal would still meet the +/-10% rule.
27. Two objections sought a reduction in the total number of councillors, to 9 or 10 members elected at large. The Commission has already considered and rejected the proposal to move to an at-large system of election (see above). In terms of reducing the number of councillors, we consider that given the size and diversity of Rotorua District, 12 councillors are still required to ensure the effective representation of communities, including people having reasonable access to their elected members. We also heard no evidence that would warrant either a decrease or an increase in the total number of Council members.
28. Moreover, the Commission notes that the number of councillors is not excessive or inconsistent with the numbers of councillors in other districts with similar populations (for example, New Plymouth District). The Commission

¹ Rotorua District Council – Triennial Review Determination (Local Government Commission, March 2001) pages 6 – 7.

has therefore formed the view that the number of councillors should remain at 12, plus the Mayor.

Communities

29. The Council has proposed that there should not be any community boards established. There are none at the present time. Three of the appeals and objections, and 6 submissions, were opposed to this decision.
30. Most of those which challenged the Council's decision on community boards specifically sought the establishment of a community board for the Rotorua Lakes area. However one objection, the Rotorua District Community Association, sought the establishment of community boards more generally.
31. In reviewing community boards the Commission is first required to consider whether there should be community boards within Rotorua District. In doing so, section 19W(a) requires it to have regard to any of the criteria for considering reorganisation schemes, contained in subpart 2 of Schedule 3 of the Local Government Act 2002 ("the LGA"), as it considers appropriate. These are:
 - Will the proposal promote the good local government of the parent district and the community concerned?
 - Would the district and the community have the resources necessary to enable them to carry out their respective responsibilities, duties and powers?
 - Would the district and the community encompass an area that is appropriate for the efficient and effective exercise of their responsibilities, duties and powers?
 - Would the district and the community contain a sufficiently distinct community of interest or sufficiently distinct communities of interest?
 - Would the district and the community be able to meet the decision-making requirements of section 76 of the LGA, to the extent that they are applicable?
32. The Commission was also mindful of the overriding principle, contained in section 4(1)(a) of the Act, of fair and effective representation for individuals and communities.
33. While "good local government" is not defined in the Act or the LGA, the Commission believes that the purposes of local government, as contained in section 3 of the LGA, and the principles relating to local authorities, as contained in section 14, should be taken into consideration. The Commission has also had regard to the provisions of the LGA dealing with community boards, these being Schedule 7, and Subpart 2 of Part 4.
34. The Commission has considered all these criteria, specifically in the context of the proposal to establish a Rotorua Lakes community, but also more generally as it applies across the district. The Commission has decided that the establishment of a Rotorua Lakes Community Board would promote good local government, both of the area concerned, and the wider district. It also considers the proposal meets the other criteria as described above, in that the proposed community board:

- can be properly resourced;
 - does reflect a distinct community of interest;
 - will be able to meet applicable planning and decision-making requirements under s.76 of the LGA; and
 - has an appropriate boundary (with one small modification) and area of impact.
35. Please refer to the Commission's determination on the proposal to constitute a Rotorua Lakes Community Board for further discussion of these points.
36. By making the above-mentioned decision, the Commission has concluded that there is a need for communities within the district, and has established one, the Rotorua Lakes Community. The community board for this community is to comprise 4 members to be elected from the community, and 2 to be appointed by the Council (one to be the North Ward member, and one to be the East Ward member). The Commission considers this membership arrangement should achieve the effective representation of that community of interest.

DETERMINATION

37. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Rotorua District Council to be held on 13 October 2007, the following representation arrangements shall apply –
- (1) Rotorua District, as delineated on S.O. Plan No. 58044 deposited with Land Information New Zealand, shall be divided into four wards;
 - (2) Those four wards shall be –
 - (i) The North Ward, comprising the area delineated on S.O. Plan No. 58045 deposited with Land Information New Zealand;
 - (ii) The East Ward, comprising the area delineated on S.O. Plan No. 58047 deposited with Land Information New Zealand;
 - (iii) The South Ward, comprising the area delineated on S.O. Plan No. 58048 deposited with Land Information New Zealand;
 - (iv) The West Ward, comprising the area delineated on S.O. Plan No. 58046 deposited with Land Information New Zealand;
 - (3) The Council shall comprise the Mayor and 12 members, elected as follows:
 - (a) three members shall be elected by the electors of the North Ward;
 - (b) three members shall be elected by the electors of the East Ward;
 - (c) three members shall be elected by the electors of the South Ward; and
 - (d) three members shall be elected by the electors of the West Ward;

- (4) There shall be one community, the Rotorua Lakes Community, comprising the area delineated on S.O. Plan No. 379278 deposited with Land Information New Zealand.
- (5) The membership of the Rotorua Lakes Community Board shall comprise:
 - (a) four elected members;
 - (b) two members of the Council to be appointed to the community board as follows:
 - (i) one member representing the North Ward; and
 - (ii) one member representing the East Ward.
- (6) 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 purposes.

THE LOCAL GOVERNMENT COMMISSION

Sue Piper (Chair)

Gwen Bull (Commissioner)

Wynne Raymond (Commissioner)

7 November 2006