



**LOCAL GOVERNMENT COMMISSION
MANA KĀWANATANGA Ā ROHE**

Determination

**of representation arrangements to apply for
the election of the Rotorua District Council
to be held on 9 October 2010**

Background

1. The Rotorua District Council (the Council) elected at the 2007 local elections comprises the mayor and 12 councillors elected as follows:

Wards	Population*	No. of councillors per ward	Population per councillor	Deviation from city average population per councillor	% deviation from city average population per councillor
North Ward	17,800	3	5,933.33	258.33	4.55
West Ward	18,150	3	6,050.00	375.00	6.61
East Ward	15,450	3	5,150.00	-525.00	-9.25
South Ward	16,700	3	5,566.67	-108.33	-1.91
Total	68,100	12	5,675.00		

*These figures are rounded population estimates provided by the Government Statistician at 30 June 2008.

2. The Rotorua Lakes Community Board was constituted by the Local Government Commission (the Commission) in November 2007. The Board comprises four elected members and two appointed members. The appointed members must be one councillor elected from the North Ward and one councillor elected from the East Ward.
3. On 19 February 2009 the Council resolved, under sections 19H and 19J of the Local Electoral Act 2001 (the Act), its initial proposed representation arrangements to apply for the 2010 local elections. The Council's initial proposal was as follows:
 - the Council comprise 12 councillors elected at large;
 - the Rotorua Lakes Community Board be retained with its existing boundaries; and
 - the Rotorua Lakes Community Board to comprise four elected members and two appointed councillors.¹

¹ There would no longer be a requirement for appointed members to be councillors from the North Ward and the East Ward as the wards would no longer exist.

4. The Council publicly notified its initial proposal on 20 February 2009. The public notice of this proposal recorded the Council's reason for the decision as follows: "While there are a number of communities within the Rotorua district, the Council does not consider there are any distinct communities of interest [warranting specific representation]."
5. The Council received 14 written submissions² in the period 23 February to 27 March 2009 and one late submission. Its analysis showed that, of the 15 submitters:
 - 15 supported the retention of 12 councillors;
 - 12 supported at large elections, two supported the status quo ward arrangements, and one supported a 12-wards model;
 - two sought the constitution of Māori wards; and
 - two supported and one opposed the retention of the Rotorua Lakes Community Board.
6. An analysis of the submissions identifies that -
 - (a) the main reasons for opposing at large elections were:
 - wards ensure that councillors are elected fairly from across the whole district;
 - wards ensure that the Council listens to community views expressed within each ward;
 - at large elections could result in unfair geographic distribution of councillors;
 - ward councillors are the first reference point for residents' concerns. Without wards, the first reference point would be council staff;
 - it is more meaningful to vote for three of say eight candidates in a ward than 12 of say 30 candidates at large;
 - 'meet the candidates evenings' would become impractical;
 - the ward system makes it more difficult for a particular lobby group to gain dominance of the Council; and
 - election expenses would increase under an at large system, risking the political disenfranchisement of parts of the community.
 - (b) the main reasons for supporting at large elections were:
 - wards restrict electors' choice of who will represent them on the Council;
 - all councillors represent the whole city and all ratepayers/residents are affected by all Council decisions;
 - councillors may not reside in the wards they represent whereas electors do not have a choice of the ward in which they vote (it was suggested that some councillors did not reside in the ward from which they are elected);

² In addition, on 23 April 2009, four of these submitters – John Cole, Mike O'Boyle, Ian Hulton (Rotoiti 15 Trust), and Roger Gordon (Rotorua Chamber of Commerce) gave presentations to the Council.

- a candidate may choose to stand in a ward that they consider offers an improved chance of success, either because of the number or perceived quality or popularity of candidates likely to stand in that ward;
- under the ward system, successful candidates in one ward may receive fewer votes than unsuccessful candidates in another ward;
- electors are not obliged to vote for all 12 candidates and may vote for a lesser number;
- the current Council is not representative of the voting population as a whole;
- a survey of the 650 membership organisations of the Rotorua Chamber of Commerce elicited a 26% response rate. Of these respondents 85% supported at large elections;
- at large elections will bring about more cohesive local government; and
- at large elections minimise the risk of ward-elected councillors voting in a manner that supports their re-election even if their vote is not in the best interests of the district as a whole.

(c) submitters who commented on the Council's overall membership stated that the work expectation of councillors could not be adequately met by fewer than 12 councillors, and that this number was appropriate for the population size of the District.

(d) the submitter opposed to the retention of the Rotorua Lakes Community Board considered that:

- (i) it was unnecessary given the size of the District and the accessibility of councillors; and
- (ii) the Rotorua Lakes are integral to the identity of the whole district and should be governed from a whole of district perspective.

7. Following its consideration of submissions, the Council, on 23 April 2009, agreed that its final proposal be the same as its initial proposal.

8. The Council publicly notified its final proposal on 1 May 2009. It recorded the following reasons for its decisions:

- (a) "Rotorua district is a reasonably large district (area and population) that requires the present number of councillors to provide effective representation;
- (b) the majority of submissions were in favour of retaining 12 councillors and electing them at large;
- (c) existing ward boundaries do not reflect distinct communities of interest warranting specific representation; and
- (d) excellent representation is provided for residents under the current representation system but would be improved by electing councillors at large."

Appeal

9. The Council received one appeal. The appeal raises two procedural issues and expresses opposition to part of the Council's proposal, this being its decision to move from a ward structure to at large elections. The appellant suggests that 12 single councillor wards should be constituted. No other matters are raised in the appeal, such as the overall number of councillors or community boards arrangements. The appeal presents the following main arguments:
- voter turnout in New Zealand local government elections is low. At large elections will compound this problem by providing an overwhelming degree of choice for electors of up to say 30 candidates for the Council;
 - 'meet the candidates' events will become excessively lengthy and electioneering more superficial in terms of the opportunities for candidates to outline their credentials and vision for the district;
 - voting papers will become longer and therefore more confusing for electors;
 - being able to vote for only one candidate focuses electors' minds; and
 - electors' ability to vote for a single candidate to represent them is a fundamental democratic principle.

Hearing

10. Having considered the appeal and other documents forward to it by the Council in accordance with section 19Q of the Act (including submissions on the initial proposal), and having undertaken its own inquiries, the Commission decided that it had sufficient information to determine the matters required of it. It decided, on 30 July 2009, that a hearing of the appeal and submitters was not necessary.

Matters for Determination

11. The statutory provisions in respect of 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.*

Consideration by the Commission

Procedural issues

12. The appellant raises two procedural issues as follows:
- (a) the Council's resolution on its final proposal was carried by five to three votes with only eight of the potential 13 votes being cast; and
 - (b) there was no formal opportunity for councillors to vote for a 12- ward option.
13. We understand that the Council's initial and final proposals were both resolved by majority. No division was called for and no councillors requested that their vote be recorded opposing the resolution. One councillor was absent from the meeting to resolve the initial proposal. There were four councillors absent from the meeting to resolve the final proposal. Another councillor withdrew as he believed that he could not fairly participate in the decision-making because his representation preference had been reported in the newspaper. We are satisfied that the Council gave due consideration to all submissions received, including the appellant's proposed 12 ward option. There is no evidence of the Council acting improperly.

Effective and fair representation

14. A review of representation arrangements under the Act is to ensure that:
- the method adopted for the election of members (i.e. at large, wards, or a combination of both) will provide effective representation of communities of interest within the district (section 19T); and
 - in determining the number of members to be elected by each ward, electors of that ward will receive fair representation (section 19V).

15. For the purpose of achieving fair representation, section 19V(2) requires that the population of each ward divided by the number of members to be elected by that ward produces a figure no more than 10% greater or smaller than the population of the district divided by the total number of elected members. The Act does not define 'effective representation' or 'communities of interest'.
16. The steps in the process for achieving effective and fair representation are not statutorily prescribed. The Commission believes that the following approach to determining representation arrangements will achieve a robust outcome that is in accordance with the statutory criteria:
 - (a) identify the district's communities of interest;
 - (b) determine the best means of providing effective representation of the communities of interest; and
 - (c) determine fair representation of electors for the district.

Rotorua District

17. Rotorua District is a large district covering 2,708 square kilometres. It is diverse in its geographical characteristics and includes a large urban area centred around the southern shore of Lake Rotorua, a number of smaller lakes, an extensive rural area, geothermal activity, forestry and farming areas.
18. At the time of the 2006 census, the Rotorua District had a population of 65,901, ranking it 16th in population size out of the 73 local council areas in New Zealand. Approximately 80% of the population live within the Rotorua urban area. Approximately 36.4% of the total population identify themselves as belonging to the Māori ethnic group, with 60.9% identifying themselves as belonging to the European/Pākehā ethnic group. The District experienced general population growth of 2.2% between the 2001 census and the 2006 census. The Māori ethnic population of the District increased by 5.2% during the same period.
19. Within the Rotorua District, geographically-defined communities of interest at the sub-district level could be identified by an association with, for example:
 - areas within or in close proximity to the Rotorua urban area that have their own shopping centres, community facilities and geographical features, such as Ngongotaha³;
 - outlying settlement areas such as Reporoa⁴, Mamaku, and other rural areas;
 - the areas covered by resident and ratepayer associations within the District⁵;
 - the Rotorua Lakes Community Board area; and
 - communities of interest centred on marae, hapū and iwi affiliations.
20. The Council argues that, in the context of considering the basis of election for the Rotorua District (i.e. a system of wards or at large elections) the

³ Ngongotaha is located approximately five kilometres from the Rotorua urban area. It has a population of approximately 4-5,000.

⁴ We estimate the population of Reporoa to be approximately 500-600 people. Basic supplies can be purchased here. Reporoa is located approximately 54 kilometres from the Rotorua urban area.

⁵ As identified on the Council's website: www.rdc.govt.nz

community of Rotorua District as a whole is the predominant geographically-defined community of interest. While there are identifiable sub-district communities of interest, the requirement for population equity between wards precludes their specific representation. In contrast, the appellant argues for the constitution of 12 single-member wards.

21. We note that the Commission has considered and dismissed the suggestion for the constitution of 12-single member wards for the Rotorua District in 1992, 1998, 2001 and 2007. Our reasons for continuing to not support this suggestion include:
 - the absence of information to assist the identification of up to twelve recognisably distinct communities of interest within the Rotorua District; and
 - the absence of evidence of support within the Rotorua community for the suggestion.
22. We note that the current four-ward structure was established in 1989 by the Commission. In 1992, 1998, 2001 and 2007 the Commission dismissed appeals seeking at large representation or an alternative ward structure and upheld the Council's decision to retain the four-ward structure.
23. In summary, the intent of the four-ward structure was to promote a more direct and focused system of accountability and representation between councillors and communities of interest and/or residents located within geographically-defined 'quarters of the District'. These 'quarters' reflect the main access routes connecting the outlying and rural areas with the Rotorua urban area. The wards each combine parts of the Rotorua urban area with large rural and outlying areas. As such the majority of electors within each ward reside within the Rotorua urban area. This would be the same if the wards were disbanded and an at large system adopted.
24. While the existing ward boundaries broadly reflect distinct outlying and rural parts of the District, the Council argues that some of these boundaries do not reflect recognisably distinct communities of interest within the Rotorua urban area.
25. There are some basic services and facilities located outside of the Rotorua urban area (for example, in Reporoa, Ngongotaha and Mamaku). However, we are satisfied that most residents of outlying and rural areas of the district travel regularly to the Rotorua urban area for work, shopping, and recreation. This would reinforce a sense of district-wide community of interest.
26. We note that the Council, in the past, has held meetings in rural and outlying locations to discuss its strategic, annual, and district plans with the residents of these areas. The Council also uses a range of consultation and community engagement mechanisms, including its website. These practices assist councillors' awareness of community and resident views. We note that councils are expected⁶ to review their governance statement and consultation policies following each triennial election and will do so following the 2010 election.

⁶ See section 40 of the Local Government Act 2002.

27. There was majority submitter support⁷ for the Council's proposal to move to at large elections and only one appeal proposing a model previously rejected. These are compelling factors in this case. Accordingly, we uphold the Council's decision to move to at large elections.
28. The Council's representation review generated no community opposition to the retention of 12 councillors. We also uphold this element of the Council's proposal.

Communities and community boards

29. Section 19W of the Act sets out criteria for community board reviews. These include requirements for effective representation of communities of interest within the community and fair representation of electors.
30. The Council's proposal is to retain the Rotorua Lakes Community Board with its existing boundaries. The Board will continue to comprise four elected members and two councillors appointed by the Council. No additional community boards will be constituted.
31. We note that community boards provide one mechanism to represent, and advocate for, a distinct community or collection of communities of interest. However, there were no submissions requesting additional community boards. There were no appeals against the Council's decision to retain the Rotorua Lakes Community Board. We therefore uphold these elements of the Council's proposal.

⁷ Twelve submitters to the Council's initial proposal supported at large elections, with three opposing.

Commission's Determination

32. 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 9 October 2010, the following representation arrangements shall apply –
- (1) Rotorua District as delineated on SO Plan 58044 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 District as a whole;
 - (3) There shall be a Rotorua Lakes Community, comprising the area as delineated on S.O. Plan 379278 deposited with Land Information New Zealand;
 - (4) The membership of the community board for the Rotorua Community shall be four elected members and two appointed members.
33. As required by section 19W(c) of the Local Electoral Act 2001, the boundaries of the above 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

Sue Piper (Chair)
Gwen Bull (Commissioner)
Grant Kirby (Commissioner)

10 August 2009