



LOCAL GOVERNMENT COMMISSION MANA KĀWANATANGA Ā ROHE

Determination of representation arrangements to apply for the election of the Invercargill City Council to be held on 9 October 2010

Background

1. The Invercargill City Council (the Council) elected at the 2007 local elections comprised the Mayor and 12 councillors. The councillors were elected at large from the City as a whole:
2. There is one community board in Invercargill City, the Bluff Community Board. It has five elected members and one appointed member.
3. The history of Invercargill City's representation arrangements is as follows:
 - when constituted as Invercargill District in 1989, the Council comprised 15 members elected from nine wards. There were two community boards – Bluff and Otatara
 - in 1990 the district was reconstituted as a city and a third community board was established – Bush
 - at the 1992 representation review the Council adopted the at large system and reduced the number of councillors to 12. The Local Government Commission upheld the Council's proposal
 - at the 1995 and 2001 reviews the Commission again upheld the at large system and the number of councillors remaining at 12
 - at the 2004 review the Commission upheld the Council's proposal to abolish the Bush and Otatara Community Boards as well as the continuation of the at large system

Preliminary consideration

4. The Council was required by the Local Electoral Act to carry out a review of its representation arrangements prior to the 2010 local elections. Prior to undertaking the formal part of its review, the Council established an Independent Advisory Panel to review the City's representation arrangements and make recommendations to the Council. The panel comprised five members of the public, one iwi representative and one councillor as chair. The panel carried out consultation through public meetings, a hui and questionnaires.

5. The panel recommended -

- retention of 12 councillors elected at large
- retention of the Bluff Community Board
- the adoption by the Council of additional means of community engagement, which could be –
 - a programme of councillor clinics by area
 - a regular programme of community area meetings
 - development of a policy to provide basic support to residents groups which meet defined criteria

Council's initial proposal

6. The Council adopted the Advisory Panel's proposal on 11 August 2009 and called for submissions on it. Eighteen submissions were received on the proposal. In brief the submissions sought the following -

Basis of representation

- 12 submissions supported the at large system
- 2 submissions supported a mixed system
- 4 submissions supported a ward system

Number of councillors

- 13 submissions supported retention of 12 councillors
- 3 submissions supported a lesser number

Bluff Community Board

- 15 submissions supported retention of the Bluff Community Board
- 3 submissions did not support the Board's retention

Other community boards

- 9 submissions supported additional community boards, principally in the Otatara area
- 7 submissions did not support additional community boards

Council's final proposal

7. Following its consideration of submissions, the Council, on 3 November 2010, agreed that its final proposal be the same as its initial proposal.
8. The Council publicly notified its final proposal on 9 November 2010. It recorded the following reasons for its decisions:

Issue	Council's reasons
That members of the Council be elected at large	<ul style="list-style-type: none">• The majority of submitters supported this proposal• Elections at large provide voters with the greatest choice of candidates at election time and when wishing to approach a councillor• The small size of the district enables a

	<p>councillor to gain an understanding of community issues throughout the district</p> <ul style="list-style-type: none"> • Council, through the community engagement programme, will offer greater opportunity for community consultation and engagement • Provides for fair and effective representation
The number of councillors remain at 12	<ul style="list-style-type: none"> • Twelve councillors recognises the increasing workload of councillors • Council needs sufficient councillors to enable it to operate in an effective and efficient manner • Twelve councillors provides for fair and effective representation
The Bluff Community Board be retained in its current form	<ul style="list-style-type: none"> • Bluff was identified by people throughout the district as being a community of interest • Significant support by the Bluff community for the retention of the Bluff Community Board and the role it undertakes in the community and with the Council
No additional community boards be established	<ul style="list-style-type: none"> • No additional communities of interest were identified through the submissions • No requests were made by community groups for community boards to be formed • Community groups and submitters' preference was for Council to implement its community engagement programme, which would offer greater opportunity for community consultation and engagement

9. In addition to dealing with the formal aspects of its representation arrangements the Council adopted the Panel's recommendations about community engagement and resolved to -

“adopt a community engagement programme for a trial of three years. The programme is to include clinics, community meetings and administrative funding support to residents groups which meet Council criteria”.

Appeals

10. One appeal, from Kylie Fowler, was received against the Council's proposal. Her original submission sought –
- a mixed ward/at large system
 - a rural ward
 - the Bluff Community Board to include members appointed from the public to represent the Omaui and rural communities within the Bluff Community Board area
 - the reconstitution of an Otatara Community Board
11. The appeal also addressed the Council's community engagement programme and several procedural issues. However the Commission is not required to determine these.

Hearing

12. The Commission met with the Council and the appellant at a hearing held at the Civic Theatre, Invercargill on 7 April 2010. The Council was represented by the Deputy Mayor Neil Boniface, Chief Executive Richard King, Warwick Cambridge (Legal Advisor), Pamela Gare (Corporate Planner) and Janette Malcolm (Consultant) The Mayor, Tim Shadbolt and Councillor, Norman Elder were also present at the hearing. The appellant, Kylie Fowler was present at the hearing and spoke to her appeal.

Matters raised in appeals and at the hearing

13. The main points presented by the Council at the hearing were that:
 - the Council was confident that it had followed best practice in conducting its review
 - the Independent Advisory Panel had given extensive opportunities for consultation and had been commended by members of the community for the way in which consultation had been undertaken
 - the level of participation in the consultation was disappointing and the Panel concluded from this that there was not a groundswell for any change to the current system
 - the Panel considered that it would be difficult to find sensible geographic divisions for wards that did not create new areas of democratic disadvantage and joining unlike communities together
 - previous Commission determinations had identified only Bluff as a distinctly different community of interest
 - a peri-urban ward in a mixed ward/at large system, should there be one, would be unwieldy including Bluff and then extending to the north of the City and then westerly to Otatara and Oreti Beach
 - the farming community has been able to effectively engage with the Council on issues, eg rating, that specifically affects it
 - the trend identified in the Commission's 2004 determination that the Otatara and Myross Bush areas were developing as "lifestyle" areas is continuing
 - the Panel believed that a number of the issues identified in its consultations could be better resolved by means other than wards or community boards, and that non-Local Electoral Act solutions could provide greater flexibility and would allow councillors to work in the community to their strengths
 - submissions from Otatara expressed a preference for administrative support for the residents' association rather than a community board
 - Invercargill's population had reversed an earlier trend to decline and is now growing
 - the appellant's assertion that some of those who participated in the pre-consultation phases may have felt it unnecessary to make a formal submission is possibly correct. However it is not correct to infer that any disadvantage occurred as a result and submitters to the Panel were advised of the opportunity to make submissions to the Council
 - the Otatara Residents' Association had already received funding under the Council's policy and a round of community clinics was underway
 - it has not always been the case that a majority of councillors live in North Invercargill

14. The main points raised by the appellant were:

- there was a view by some in the community that despite the process the Council was always going to retain an at large system
- there was confusion between the survey responses to the Panel and the formal submission process, resulting in some people not making submissions to the Council
- the Community Council Engagement Programme was only on a trial for three years and there is no certainty about what would happen after that
- the farming community did not engage with the Bluff Community Board
- Omaui forms a distinct community within the Bluff Community
- a majority of councillors live in the more affluent North Invercargill with the result that South Invercargill is not adequately looked after
- a perception had arisen on the part of Otatara residents that their rates would increase if they had a community board and this had affected the content of submissions from the area

Matters for Determination

15. The statutory provisions in respect of objections and appeals 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.*

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.*

Consideration by the Commission

Effective and fair representation

16. 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).
17. 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'.
18. 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 city's communities of interest;
 - (b) determine the best means of providing effective representation of the communities of interest; and
 - (c) determine fair representation for electors of the city.

Basis of election

19. As noted above, the Council's proposal is for an at large system of electing councillors. The appellant sought a mixed ward/at large system, in particular one with rural representation.
20. We have carefully considered the information provided by the Council and the appellant, the conclusions of the Independent Advisory Panel and the conclusions of previous Commissions when considering this issue. Invercargill is a compact city with a pronounced focus on the centre of the City and a lack of clear dividing lines between most sub-communities. In the consultation processes the majority of submitters favoured retaining at large representation and there was no significant demand for change. These were substantially the conclusions arrived at by previous Commissions in 1992, 1995, 2001 and 2004.
21. While there is a rural fringe around the urban component of the City the area that would have to be included in a rural ward would not make it a totally "farming" ward. Under a mixed system a ward covering the City's rural area -
- would also include Bluff (which would comprise about 20% of such a ward's population); and

- would comprise a significant area of lifestyle blocks as opposed to economic farming units and a population that comprises a number of people who work in the urban area.
22. Ultimately we do not believe that the creation of a “rural” ward within a mixed system would reflect sufficiently distinct communities of interest. On the above basis we have determined that the at large system proposed by the Council will provide effective representation of communities of interest in the City. We also consider that a total of 12 councillors would provide effective representation.

Communities and community boards

23. 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.
24. Both the Independent Advisory Panel and the Council concluded that Bluff forms a distinct community within the City and that effective representation for Bluff is provided by the Bluff Community Board. The Commission’s 2004 determination stated that -

“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 a number of local issues that are peculiar to it.”

25. We are satisfied that Bluff continues to constitute a distinct community of interest and that the Bluff Community Board contributes to the community’s effective representation.
26. The appellant sought the appointment of members to the Bluff Community Board to represent both the rural part of the community board area and the Omaui community. This is not possible as the Local Electoral Act does not permit such appointments. The only appointed members on the community board permitted by the Act (in section 19F(3)(a)) are members of the Council.
27. The Local Electoral Act does permit subdivisions of community board areas for electoral purposes. During the hearing we briefly examined how a subdivision arrangement might work for the Bluff Community Board (although we did not make a judgement on whether such an arrangement is actually needed for effective representation). We concluded that collectively Omaui and the rural part of the community board area would not have sufficient population to justify separate representation on the community board or meet the fair representation requirements of the Local Electoral Act (the +/-10% rule).
28. The appellant also sought the re-establishment of an Otatara Community Board. We note that the consultation process did not draw out significant support from the Otatara community itself for a community board. Rather, the process resulted in the Council adopting a policy for alternative methods of engaging with the community and for the resourcing of residents’ associations. That policy has already benefited the Otatara Residents’ Association. The matter of whether or not there should be an Otatara Community Board was considered by the Commission when dealing with the Council’s 2004 representation review. The issues identified in the Commission’s 2004

determination appear to us be equally appropriate today as they did six years ago and we have reached the same conclusion, that an Otatara Community Board should not be constituted.

29. Having considered all aspects of the matter we have confirmed the Council's proposal for community boards; that is the retention of a Bluff Community Board with five elected members and one appointed member.

The Council's Process

30. We have been impressed with the quality of the process used by the Council in carrying out its representation review. The composition of the Independent Advisory Panel, the lengths gone to consult the community and the material provided to the public are models of good practice which we would recommend to other local authorities carrying out reviews.

Commission's Determination

31. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Invercargill City Council to be held on 9 October 2010, the following representation arrangements apply –
 - (1) Invercargill City, as delineated on S.O. Plan 11471 deposited with Land Information New Zealand, is not divided into wards;
 - (2) the Council comprises the Mayor and 12 members who shall be elected by the electors of the City as a whole;
 - (3) there shall be a Bluff Community, comprising the area delineated on S.O. Plan 11472 deposited with Land Information New Zealand; and
 - (4) the Bluff Community Board comprises five elected members and one member of the Council appointed to the community board by the Council.
32. 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 April 2010