



## **Determination**

on a decision of the Mackenzie District Council to adopt representation arrangements for the local authority elections to be held on 8 October 2022

### **Background**

1. All territorial authorities are required under sections 19H and 19J of the Local Electoral Act 2001 (the Act) to review their representation arrangements at least every six years. Representation reviews are to determine the number of councillors to be elected, the basis of election for councillors and, if this includes wards, the boundaries and names of those wards. Reviews also include whether there are to be community boards and, if so, arrangements for those boards. Representation arrangements are to be determined so as to provide fair and effective representation for individuals and communities.
2. The Mackenzie District Council (the council) last reviewed its representation arrangements prior to the 2016 local authority elections. Accordingly, it was required to undertake a review prior to the next elections in October 2022.
3. The Commission last made a determination in relation to Mackenzie District Council's representation in 2004. The council's current representation arrangements have been in place since and are as follows:
  - (a) a council comprising six members elected from two wards (Pukaki and Opuha), plus the Mayor elected at large
  - (b) three community boards, being:
    - Twizel Community Board (four elected members and one appointed member)
    - Tekapo Community Board (four elected members and one appointed member)
    - Fairlie Community Board (four elected members and one appointed member)

### **Current review**

4. On 16 March 2021 the council resolved its initial representation proposal. In doing so it noted that maintaining the status quo was not possible as the population of the Twizel/Pukaki area had grown faster than the population of the Fairlie/Opuha area, creating an imbalance between the two wards. The proposed arrangements were as follows:
  - (a) a council comprising seven members elected from three wards (Pukaki, Opuha, Tekapo), plus the Mayor elected at large

- (b) three community boards retained, as for the current arrangements but with the boundaries altered to align with the newly proposed wards.

Ward	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Pukaki	2,423	3	807	+33	+4.31%
Opuha	2,310	3	770	-4	-0.55%
Tekapo	687	1	687	-87	-11.27%
<b>Total</b>	<b>5,420</b>	<b>7</b>	<b>774</b>		

\*Based on 2020 Census data

5. The council received 15 submissions on its initial proposal. The Council considered the submissions and subsequently resolved its initial proposal as its final proposal, with no changes, on 3 August 2021.
6. No appeals were received against the final proposal.
7. The council was, however, required by section 19V(4) of the Act to refer its proposal to the Commission for determination as the Tekapo ward does not comply with the fair representation requirement of subsection (2), the '+/-10% rule'.
8. The council considered that the Tekapo ward warrants a ratio outside the range for the effective representation of communities of interest within isolated communities situated within the district.

### Matters for determination by the Commission

9. Section 19V(3) provides that, despite subsection (2), if a territorial authority or the Commission considers one or more of certain prescribed conditions apply, subdivisions may be defined and membership distributed between them in a way that does not comply with subsection (2). The prescribed conditions are:
  - (a) non-compliance is required for effective representation of communities of interest within island or isolated communities situated within the district of the territorial authority
  - (b) compliance would limit effective representation of communities of interest by dividing a community of interest between subdivisions
  - (c) compliance would limit effective representation of communities of interest by uniting within a subdivision two or more communities of interest with few commonalities of interest.
10. Section 19V(6) provides that on receiving a reference under subsection (4), the Commission must determine whether to:
  - (a) uphold the decision of the council, or
  - (b) alter that decision.

11. Accordingly, the matters for determination by the Commission are limited to the council’s decision to establish a Tekapo ward, despite it not complying with the ‘+/- 10% rule’.

**Accuracy of data used**

12. The data used for the calculations presented to the council through its decision-making process was inaccurate. The council used 2020 population estimates to calculate the Opuha ward. The data used to calculate the Pukaki and Tekapo wards was a mix of 2020 population estimates and 2018 Census data.
13. On that basis, the population table above, is incorrect as were many similar tables considered by the council through its process.
14. Consistently using the Statistics New Zealand 2020 population estimates the updated population table would be as follows:

Ward	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Pukaki	2,200	3	733	-47	-5.98%
Opuha	2,320	3	773	-7	-0.85%
Tekapo	940	1	940	+160	+20.51%
<b>Total</b>	<b>5,460</b>	<b>7</b>	<b>780</b>		

15. On this basis, the proposal sent to the Commission by the council is considerably changed. The proposal represented an over representation for the proposed Tekapo ward. With the consistent data applied, the Tekapo ward is in fact under represented.
16. It may be that the council’s rationale for non-compliance may remain the same for under representation as it was for over representation. The council considered that the Tekapo ward warrants a ratio outside the range for the effective representation of communities of interest within isolated communities situated within the district.

**Key considerations**

17. Based on the legislative requirements, the Commission’s *Guidelines for local authorities undertaking representation reviews* identify the following three key factors when considering representation proposals:
  - a. communities of interest
  - b. effective representation of communities of interest
  - c. fair representation for electors.
18. The Commission’s Guidelines note that what constitutes effective representation will be specific to each local authority but that the following factors should be considered to the extent possible:
  - a. avoiding arrangements that may create barriers to participation, such as at elections by not recognising residents’ familiarity and identity with an area

- b. not splitting recognised communities of interest between electoral subdivisions
- c. not grouping together two or more communities of interest that share few commonalities of interest
- d. accessibility, size and configuration of an area including access to elected members and vice versa.

### ***Communities of interest***

- 19. Through its informal community engagement and submissions received to its initial proposal, the council heard from its community that it felt increased representation was needed for the Tekapo community.
- 20. Tekapo is a distinct community of interest geographically separated from Twizel and Fairlie. The proposed new boundary aligns to geographical features, Lake Pukaki and the mountain range, which does not seem to split communities of interest nor result in communities of interest with limited commonalities being combined.

### ***Effective representation and fair representation***

- 21. In its 2004 determination the Commission came to the view that because of the size and diversity of the district, effective representation of communities of interested could only be achieved by councillors being elected on a ward basis.
- 22. As part of its current review, the council considered the option of electing councillors at large across the whole district. The option was dismissed as in favour of a ward system which better responded to the geography of the district and the type of representation the community wanted.
- 23. The council considered a number of options prior to making its proposal for a Tekapo ward. One of which was to consider adding an additional councillor to the Pukaki ward. While this would have achieved compliance with the '+/-10% rule' it would not have addressed the need to increase specific representation for Tekapo as requested by the community. Consideration was also given to alteration of boundaries for both a two and three ward model, however, these resulted in combining geographically and socially distinct communities of interest.
- 24. While the Tekapo ward sits at '+20.51%' it is worth noting that the difference between this and compliance at +10% equates to approximately 80 people.
- 25. It is also worth noting that the community of Tekapo will have an expectation that a new ward will be created and that they will experience the benefits of specific ward representation.

### **Conclusion**

- 26. Aspects of the council's process have at times not been compliant with the legislation. The Commission intends to write separately to the Council to identify areas of improvement for future reviews. However, no appeals were received to the council's final proposal indicating that the community is satisfied with the proposed arrangements.
- 27. The council's justification of non-compliance with the '+/-10% rule' on the basis of isolation is not strong, however, Tekapo does meet the test for being considered a distinct community of interest on other grounds.

28. In summary, the Commission considers the council's proposal to create a Tekapo ward that does not comply with the '+/-10% rule' should be upheld. The reasons being that:
- (a) the Tekapo area is a distinct community of interest
  - (b) compliance with the '+/- 10% rule' in this case would limit the effective representation of the Tekapo community by either splitting communities of interest or uniting communities of interest with few commonalities of interest.

### **Commission's determination**

29. Under section 19R of the Local Electoral Act 2001, the Commission upholds the decision of the Mackenzie District Council not to comply with section 19V(2) +/-10% fair representation requirement in respect of the Tekapo ward, as compliance would limit effective representation of the Tekapo community by either splitting communities of interest or uniting communities of interest with few commonalities of interest.
30. Accordingly, for the triennial general election of the Mackenzie District Council to be held on 8 October 2022, the following representation arrangements will apply:
- (a) The Mackenzie District as delineated on LG-065-2022-W-1 deposited with the Local Government Commission, shall be divided into three wards;
  - (b) Those three wards shall be –
    - (i) Pukaki ward, comprising the area delineated on LG-065-2022-W-2 deposited with Land Information New Zealand
    - (ii) Opuha ward, comprising the area delineated on S.O. Plan No. 334958 deposited with Land Information New Zealand
    - (iii) Tekapo ward, comprising the area delineated on LG-065-2022-W-3
  - (c) The Council shall comprise the mayor and 7 members who shall be elected as follows –
    - (i) 3 councillors elected by the electors of Pukaki ward
    - (ii) 3 councillors elected by the electors of Opuha ward
    - (iii) 1 councillor elected by the electors of Tekapo ward
  - (d) There shall be three communities as follows:
    - (i) Twizel Community comprising the area of Pukaki ward
    - (ii) Tekapo Community comprising the area of Tekapo ward
    - (iii) Fairlie Community, comprising the area of Opuha ward
  - (e) The membership of the community board for each community shall be as follows:
    - (i) The Twizel Community Board will comprise four elected members and one member appointed to the community board by the council representing Pukaki ward

(ii) The Tekapo Community Board will comprise four elected members and one member appointed to the community board by the Council representing Tekapo ward

(iii) The Fairlie Community Board will comprise four elected members and one member appointed to the community board by the Council representing Opuha ward;

31. 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.

## Local Government Commission

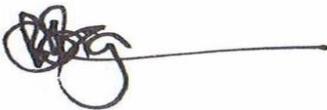
Commissioner Brendan Duffy



Commissioner Janie Annear



Commissioner Bonita Bigham



Commissioner Sue Piper



21 February 2022