



LOCAL GOVERNMENT COMMISSION
MANA KĀWANATANGA Ā ROHE

Determination

of representation arrangements to apply for
the election of the Tasman District Council
to be held on 12 October 2013

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. These 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 Tasman District Council (the Council) last reviewed its representation arrangements prior to the 2007 local authority elections. Accordingly it was required to undertake a review prior to the next elections in October 2013.
3. As a result of appeals/objections on its last review, the representation arrangements that applied for the 2007 and subsequent 2010 elections were determined by the Commission and comprised a mayor and 13 councillors elected as follows:

Wards	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district population per councillor
Golden Bay	4,950	2	2,475	-1,224	-33.09
Lakes-Murchison	3,540	1	3,540	-159	-4.30
Moutere-Waimea	13,000	3	4,333	+634	+17.14
Motueka	11,050	3	3,683	-16	-0.43
Richmond	15,550	4	3,888	+189	+5.11
Total	48,090	13	3,699		

*These figures are updated 2011 population estimates. At the time of the 2007 review, all wards other than Golden Bay Ward complied with the section 19V +/-10% fair representation requirement.

4. Tasman District currently has two community boards in Golden Bay and Motueka, each electing four members
5. On 22 March 2012 the Council, under sections 19H and 19J of the Act, resolved its initial proposed representation arrangements to apply for the 2013 elections. The proposal was to retain the existing ward, membership and community board arrangements.
6. The Council notified its proposal on 11 May 2012 and a total of eight submissions were received.
7. Following consideration of submissions, the Council on 19 July 2012 resolved to adopt its initial proposal as its final representation proposal.
8. The Council notified its final proposal on 7 August 2012 and one appeal against the Council's proposal was received by the deadline of 7 September 2012. The appellant, Philip Borlase, sought the transfer of what he referred to as the Wakefield area from Lakes-Murchison Ward to Moutere-Waimea Ward on community of interest grounds and an increase in the membership of Lakes-Murchison Ward from one to two members.
9. Given the information set out in the documentation received from the Council, the Commission decided that no hearing of the appeal was required and proceeded to make a determination.

Requirements for determination

10. Statutory provisions relating to the determination of appeals and objections on territorial authority representation proposals 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.*

11. Other statutory provisions the Commission is required to consider include those set out in sections 19A, 19C, 19F, 19G, 19T and 19V and these are addressed below.

Consideration by the Commission

12. The steps in the process for achieving required fair and effective representation are not statutorily prescribed. As reflected in its *'Guidelines to assist local authorities in undertaking representation reviews'*, the Commission believes that the following steps in 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 identified communities of interest
 - c) determine fair representation for electors of the district.

Communities of interest

13. The Guidelines identify three dimensions for recognising communities of interest:
- perceptual: a sense of belonging to an area or locality
 - functional: the ability to meet the community's requirements for services
 - political: the ability to represent the interests and reconcile conflicts of the community.
14. The Commission considers that the case for specific representation of distinct and recognisable communities of interest will need to reflect these dimensions.
15. Since 1992, when the Council became a unitary authority, five broad communities of interest have been recognised in Tasman District: Golden Bay, Lakes-Murchison, Moutere-Waimea, Motueka and Richmond, each represented by its own ward.

Effective representation of communities of interest

16. Section 19T of the Act requires the Commission to ensure that:
- the election of members of the council, in one of the ways specified in section 19H (i.e. at large, wards, or a combination of both) will provide effective representation of communities of interest within the district
 - ward boundaries coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes
 - so far as is practicable, ward boundaries coincide with community boundaries.

17. While not a prescribed statutory requirement, the Guidelines also suggest that local authorities consider the total number of members, or a range in the number of members, necessary to provide effective representation for the district as a whole. In other words, the total number of members should not be arrived at solely as the product of the number of members per ward.
18. Section 19A of the Act provides that a territorial authority shall consist of between 5 and 29 elected members (excluding the mayor). The Council has comprised 13 elected members (excluding the mayor) since the 1992 elections.
19. The Guidelines state that decisions relating to the representation of communities of interest (the political dimension) will need to take account of the extent that distinct geographical communities of interest can be identified, i.e. a physical boundary is able to be defined below the district level for the community of interest. As noted above, since 1992, Tasman District has been divided into the current five wards, albeit with some changes to boundaries having been made in 2007.
20. In carrying out its 2007 review, the Council proposed that Lakes-Murchison Ward be allocated two members on its then boundaries. This resulted in a deviation from the section 19V fair representation requirement of -62.06%. In dealing with the 2007 review, the Commission reduced the number of members to be elected from Lakes-Murchison Ward to one, and included an additional area in the ward (referred to as 'the Wakefield area' by the appellant) to ensure that it complied with the '+/-10% fair representation rule'. The transfer of this area was the subject of the current appeal.
21. In relation to the boundaries of Lakes-Murchison Ward, and in particular to what Mr Borlase referred to as the Wakefield area and described below by the Commission as the Wai-Iti area, the Commission stated in 2007 that -

We then considered whether the Wai-Iti area of the Moutere-Waimea Ward should be transferred to the Lakes-Murchison Ward. Given the quality of roads connecting Wai-Iti and Belgrove with the remainder of the Lakes-Murchison Ward, we do not believe that the Spooners Range presents an obstacle to effective representation. The location of Wai-Iti between Richmond and the remainder of the Lakes-Murchison Ward would enable a councillor to meet with residents of the area without causing inconvenience. We believe that the linkages between Wai-Iti and other settlements within the Lakes-Murchison Ward are similar to the linkages that already exist between the settlements of Tapawera, Murchison and Saint Arnaud. We accept that enlarging the area of responsibility for a single councillor elected by the electors of the Lakes-Murchison Ward will present a challenge for that councillor in terms of travel and meeting times. We acknowledge that the changes we have made may require the Council, community groups and residents to re-examine service delivery and community governance arrangements. However, we remain confident that these arrangements for the Lakes-Murchison and Moutere-Waimea Wards will continue to provide a sound basis for the effective representation of communities of interest within them.
22. We note that the Council was proposing to retain Lakes-Murchison Ward as extended by the Commission in 2007 and the appellant quoted the Council as saying in its view "the current boundaries reflect the existing communities of interest". On this basis and in the absence of further opposition to it other than from the appellant, we endorse the Council proposal to retain the boundaries of Lakes-Murchison Ward as defined in 2007. We address the other wards below in relation to fair representation for electors.

Fair representation for electors

23. Section 19V of the Act requires that the electors of each ward receive fair representation having regard to the population of the district and of that ward. More specifically, 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 '+/-10% fair representation rule').
24. Section 19V(3) does provide an exception to the fair representation requirement for territorial authorities. This is where effective representation of communities of interest within isolated communities is seen to require the definition of wards and the distribution of members amongst them in a way that does not comply with the '+/-10% rule'.
25. In 2007 the Commission determined that Golden Bay Ward comprised an isolated community of interest and as a result a population to member ratio in excess of +/-10% was accepted. We note that in the current review the Council confirmed Golden Bay's isolation and we agree that Golden Bay remains a distinct community of interest warranting its own ward notwithstanding it does not comply with the '+/-10% rule'.
26. We note that section 19V(3)(a) provides that:
- 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).*
27. We take that to mean that once one ward has been deemed to comprise an isolated community or communities, other wards in the district may also vary from the required +/-10% population to member ratio. This, however, does not mean that the fair representation requirement can be ignored as the section 4 principle of fair and effective representation for individuals and communities still applies. On this basis we proceeded to consider the other wards that comprise Tasman District
28. As noted above, Tasman District has been divided into five wards since 1992 and these seem generally to be accepted. Apart from Golden Bay, the other wards are Lakes-Murchison, Moutere-Waimea, Motueka and Richmond.
29. As also noted above, we have endorsed the boundaries of Lakes-Murchison Ward as proposed by the Council. The Council proposed that this ward continue to be represented by one member. The appellant sought a second member for the ward. We considered carefully the nature of this ward and in particular whether this warranted a second member. As part of this consideration we noted the following comments by the Commission in its 2007 review:
- The Lakes-Murchison Ward comprises approximately 53% of the total area of the district. The Nelson Lakes National Park accounts for a large proportion of this area. The ward contains three main settlement areas – Murchison, Saint Arnaud/Lake Rotoiti and Tapawera. The majority of residents live in close proximity to one of these settlements.*
- Tapawera is located approximately 35 minutes from Richmond via State Highway 60. This is a similar distance from Richmond as other areas in the Motueka and Moutere-Waimea Wards. Saint Arnaud is located approximately an hour from*

Richmond via Stock Road and State Highway 60. Stock Road is a well-maintained arterial route. This distance between a settlement and a council's headquarters is not unusual in New Zealand.

Murchison is located on State Highway 60, approximately 80 to 90 minutes from Richmond. We heard that councillors were required in Richmond approximately three days per week. We accept that a three hour return trip to Richmond every three days would require some stamina. While time consuming, the risk of temporary isolation from the Council's main offices due to road closures is minor.

We note that the ward extends an additional 55 kilometres south of Murchison. The most populous areas south of Murchison are located on Highway 65. Less than 7% of the total population of the ward live in these areas. The Murchison area (including its rural hinterland area) accounts for less than half of the total residents of the Lakes-Murchison Ward.

Submissions made and our examination of the extent of services available in Murchison, Tapawera, and Saint Arnaud, strongly suggest that these settlements provide community focal points for outlying residents. Residents of areas further removed from these settlements would travel regularly to one of them in order to access available services. Given the small number of people located in rural and outlying areas, we believe it is equally reasonable, in most cases, to expect outlying residents to travel to these main settlement areas in order to talk to their councillor. The vast majority of rural and outlying residents are connected to Murchison, Saint Arnaud and Tapawera by good rural roads. The highway network provides multiple accesses between these settlements and Richmond.

Some submitters suggested that councillors were the first point of contact regarding specific regulatory and consent matters. We believe these services are more appropriately provided by Council staff, who are available at the Richmond and Murchison service centres. We also believe that the Council will be able to remain responsive to community interests, and residents and community groups will continue to contribute to their local communities as required, whether one or two councillors are elected from the ward.

In summary we are not satisfied that communities of interest in the Lakes-Murchison Ward are isolated to the extent that their effective representation requires enhanced representation beyond that allowed under section 19V(2) of the Act.

30. We were not presented with any information that challenged these views and accordingly we have decided again to endorse the Council's decision that Lakes-Murchison Ward should continue to be represented by one member.
31. We then turned our attention to Moutere-Waimea Ward which as proposed by the Council had a population to member ratio of +17.41%. When addressing this issue in its review, the Council gave the following reasons in its public notice for Moutere-Waimea Ward not complying with the '+/-10% rule':
 - exceeding the population formula by 264 is considered to be only a minor departure from the '+/-10% rule'
 - by including the 264 into another ward would not change the representation for those wards.
32. The Council argued that there are five distinct communities of interest in Tasman District and altering the boundaries between the five wards would split these communities of interest.

33. When considering the proposed union of Nelson City and Tasman District in 2010, the Commission was faced with a similar problem in relation to the '+/-10% rule' in relation to wards. To help ensure that the proposed Moutere-Waimea Ward of the united district more closely complied with the '+/-10% rule' the Commission proposed, in its draft reorganisation scheme, that Tasman Village be transferred from Moutere-Waimea Ward to Motueka Ward.
34. After considering submissions on the draft scheme, the Commission transferred Tasman Village back to Moutere-Waimea Ward but instead proposed to place part of the Motueka Valley in Motueka Ward. The latter decision attracted criticism from some quarters on the basis that it divided a community of interest.
35. Excluding Motueka Valley from Moutere-Waimea Ward, as part of this review, would result in that ward's compliance with the '+/-10% rule'. However we are reluctant to take this step given the past response to such a move and the fact the Council did not take this step in its review. We accept that councils are normally the best judge of communities of interest in their area and we try to follow their lead where possible.
36. The reasons given by the Council for the Moutere-Waimea Ward not complying with the +/-10% rule, and referred to in paragraph 31, are not by themselves permissible reasons for non-compliance. Non-compliance can only be permitted where one or more of the wards in a district comprises an isolated community of interest. Our interpretation of section 19V(3)(a) of the Act, however, is that it is not only the ward comprising an isolated community that does not have to comply with the +/-10% rule. Where one ward falls outside the +/-10% range because of isolation, and a strict application of the +/-10% rule would lead to an impracticable result for other wards, non-compliance with the rule is permissible.
37. In this case we consider that application of the +/-10% rule to the Moutere-Waimea Ward would not result in effective representation of communities of interest. We have, therefore, decided to uphold the Council's proposal in relation to Moutere-Waimea Ward. We do suggest, however, that the Council does do a full study of current communities of interest in the district and the ward structure prior to its next review. Continued population growth in the district may well increase the differences between the population to member ratios of the current wards and increase the degree of non-compliance with the +/-10% rule.
38. We also endorse the Council's proposals in respect of Motueka and Richmond Wards.

Communities and community boards

39. Section 19J of the Act requires every territorial authority, as part of its review of representation arrangements, to determine whether there should be community boards in the district and, if so, the nature of those communities and the structure of the community boards. The territorial authority must make this determination in light of the principle in section 4 of the Act relating to fair and effective representation for individuals and communities. The particular matters the territorial authority must determine include the number of boards to be constituted, their names and boundaries, the number of elected and appointed members, and whether the boards are to be subdivided for electoral purposes. Section 19W sets out further criteria, as apply to local government reorganisation proposals, for determinations relating to community board reviews as considered appropriate in the circumstances.

40. There have been two community boards in Tasman District since its constitution in 1989 – the Golden Bay and Motueka Community Boards. The Council's proposal was for the two boards to remain in existence with the same membership arrangements. There were no appeals relating to community boards and we have decided to endorse this aspect of the Council's proposal.

Commission's Determination

41. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Tasman District Council to be held on 12 October 2013, the following representation arrangements will apply:
- (1) Tasman District as delineated on SO Plan 14462 deposited with Land Information New Zealand, will be divided into five wards.
 - (2) Those five wards will be:
 - (a) Golden Bay Ward, comprising the area delineated on SO Plan 14463 deposited with Land Information New Zealand
 - (b) Motueka Ward, comprising the area delineated on SO Plan 14464 deposited with Land Information New Zealand
 - (c) Moutere-Waimea Ward, comprising the area delineated on SO Plan 14933 deposited with Land Information New Zealand
 - (d) Lakes-Murchison Ward, comprising the area delineated on SO Plan 386473 deposited with Land Information New Zealand
 - (e) Richmond Ward, comprising the area delineated on SO Plan 14466 deposited with Land Information New Zealand.
 - (3) The Council will comprise a mayor and 13 councillors, elected as follows:
 - (a) two councillors elected by the electors of Golden Bay Ward
 - (b) three councillors elected by the electors of Motueka Ward
 - (c) three councillors elected by the electors of Moutere-Waimea Ward
 - (d) one councillor elected by the electors of Lakes-Murchison Ward
 - (e) four councillors elected by the electors of Richmond Ward.
 - (4) There will be two communities as follows:
 - (a) Golden Bay Community, comprising the area of Golden Bay Ward
 - (b) Motueka Community, comprising the area of Motueka Ward.
 - (5) The membership of each community board will be as follows:
 - (a) Golden Bay Community Board will comprise four elected members and two members representing Golden Bay Ward and appointed to the community board by the Council
 - (b) Motueka Community Board will comprise four elected members and two members representing Motueka Ward and appointed to the community board by the Council.
42. As required by sections 19T(b) and 19W(c) of the Local Electoral Act 2001, the boundaries of the above wards coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes.

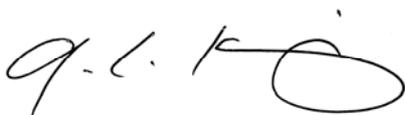
THE LOCAL GOVERNMENT COMMISSION



Basil Morrison (Chair)



Anne Carter (Commissioner)



Grant Kirby (Commissioner)

4 April 2013