



Determination

of representation arrangements to apply for
the election of the Clutha District Council
to be held on 12 October 2019

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, membership arrangements for those boards. Representation arrangements are to be determined so as to provide fair and effective representation for individuals and communities.
2. The Clutha District Council (the council) last reviewed its representation arrangements prior to the 2013 local authority elections. Therefore it was required to undertake a review prior to the next elections in October 2019.
3. The representation arrangements that applied to the 2013 and subsequent 2016 elections were determined by the council and were for a mayor and 14 councillors elected from eight wards, and two community boards – Lawrence-Tuapeka and West Otago – each comprising six members, with the ward councillors as appointed members.
4. The specific membership arrangements for the council were as follows:

Wards	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
West Otago	2,210	2	1,105	-126	-10.27
Clinton Ward	1,230	1	1,230	-1	-0.12
Lawrence-Tuapeka	1,100	1	1,100	-131	-10.67
Balclutha	5,130	4	1,283	+51	+4.15
Catlins	1,030	1	1,030	-201	-16.36
Bruce	4,200	3	1,400	+169	+13.69
Kaitangata-Matau	1,130	1	1,130	-101	-8.24
Clutha Valley	1,210	1	1,210	-21	-1.74
Total	17,240	14	1,231		

* Based on 2013 population estimates

5. As can be seen from the table above four wards did not comply with the '+/-10% rule' when 2013 population estimates were applied. At that time non-compliant arrangements were not required to be referred to the Commission for determination.
6. For the current review, applying 2017 population estimates two wards do not comply with the '+/-10% rule' – Catlins Ward at -20.18% and Bruce Ward at +12.01%.
7. On 28 June 2018, the council resolved its initial proposal for its latest representation review. The proposal was for retention of the existing arrangements subject to the following changes:
 - The Lawrence-Tuapeka ward and community board were proposed to be renamed Tuapeka
 - Kaka Point was proposed to be transferred from the Balclutha Ward to the Catlins Ward to better reflect community of interest and fair representation
 - Small areas were proposed to be transferred from the Bruce Ward to the West Otago and Tuapeka wards to achieve fairer representation
8. The specific ward and membership arrangement for the council were as follows.

Wards	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
West Otago	2,310	2	1,155	-98	-7.81
Clinton	1,280	1	1,280	+27	+2.17
Tuapeka	1,145	1	1,145	-108	-8.61
Balclutha	4,910	4	1,228	-25	-2.02
Catlins	1,270	1	1,270	+17	+1.37
Bruce	4,135	3	1,378	+125	+10.02
Kaitangata-Matau	1,150	1	1,150	-103	-8.21
Clutha Valley	1,340	1	1,340	+87	+6.96
Total	17,540	14	1,253		

* Based on 2017 population estimates

9. The council notified its initial proposal on 4 July 2018. By the deadline of 3 August 2018, it had received 5 submissions.
10. The submissions were as follows:
 - Three supported the proposal in full, two of them specifically supporting the transfer of Kaka Point to the Catlins Ward
 - One opposed only two parts of the district having community boards
 - One opposed the change in name of the Lawrence-Tuapeka Community Board to Tuapeka.
11. After considering submissions the council resolved on 6 September 2018 that its initial proposal become its final proposal. The final proposal was publicly notified on 12 September 2018.

Appeals against the council's final proposal

12. Two appeals were lodged against the council's final proposal as follows:
 - Murray Paterson, who appealed against two parts of the district having community boards and the rest of the district not, with the implication that the two boards should be abolished
 - the Lawrence-Tuapeka Community Board which appealed against the change in its name to Tuapeka.

Matters for determination by the Commission

7. Section 19R of the Act makes it clear that the Commission, in addition to consideration of the appeals and objections against a council's final representation proposal, is required to determine, in the case of a territorial authority, all the matters set out in sections 19H and 19J which relate to the representation arrangements for territorial authorities. This interpretation was reinforced by a 2004 High Court decision which found that the Commission's role is not merely supervisory of a local authority's representation arrangements decision. The Commission is required to form its own view on all the matters which are in scope of the review.
8. The matters in scope of the review are:
 - whether the council is to be elected from wards, the district as a whole, or a mix of the two
 - the number of councillors
 - if there are to be wards, the area, boundaries and names of wards and the number of councillors to be elected from each ward
 - whether there are to be community boards
 - if there are to be community boards, the area, boundaries and names of their communities, and the membership arrangements for each board.
9. For the purpose of making a determination, the Commission may make such enquiries as it considers appropriate and may hold meetings with the interested parties. There is no obligation on the Commission to hold a hearing and the need for a hearing is determined by the information provided by the parties and as a result of any further enquiries the Commission may wish to make.
10. In the case of Clutha District Council's final proposal, we considered there was sufficient information in the documentation provided by the council on the process it had followed in making its decision and also in the two objections for us to proceed to a determination. Accordingly we decided no hearing was required.

Key considerations

11. Based on legislative requirements, the Commission's *Guidelines for local authorities undertaking representation reviews* identify the following three key factors when considering representation proposals:
 - communities of interest
 - effective representation of communities of interest
 - fair representation for electors.

Communities of interest

13. The Guidelines identify three dimensions for recognising communities of interest:
- *perceptual*: a sense of identity and belonging to a defined area or locality as a result of factors such as distinctive geographical features, local history, demographics, economic and social activities
 - *functional*: ability of the area to meet the needs of communities for services such as local schools, shopping areas, community and recreational facilities, employment, transport and communication links
 - *political*: ability to represent the interests of local communities which includes non-council structures such as for local iwi and hapū, residents and ratepayer associations and the range of special interest groups.
14. We note that the council considered the issue of community of interest in its deliberations and that the transfer of the Kaka Point area from one ward to another received support in the submission process on community of interest grounds. No concerns appear to have been raised about wards not reflecting communities of interest and we are satisfied that they do reflect community perceptions and activities.

Effective representation of communities of interest

15. 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 mix of both) will provide effective representation of communities of interest within the city
 - 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 (where they exist).
16. 'Effective representation' is not defined in the Act, but the Commission sees this as requiring consideration of factors including an appropriate total number of elected members and an appropriate basis of election of members for the district concerned (at large, wards, or a mix of both).
17. While not a prescribed statutory requirement, the Guidelines 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 city 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, if there are to be wards.
18. Section 19A of the Act provides that a territorial authority shall consist of between 5 and 29 elected members (excluding the mayor), i.e. councillors. The Clutha District Council has comprised 14 councillors for some time. We note that this is a higher number of members than for most councils of similar population size. It is however what the council has determined will provide effective representation of the various communities of interest in the district. No submissions or appeals were lodged on this matter.

Fair representation for electors

19. For the purposes of achieving fair representation for the electors of a city, section 19V(1) of the Act requires that the population of each ward divided by the number of members to be elected by that ward must produce a figure no more than 10 per cent greater or smaller than the population of the city divided by the total number of members (the '+/-10% rule').
20. The council's proposal as published stated that all wards (with the proposed boundary adjustments) conform with the '+/-10% rule'. Our calculations, however, using the same methodology applied to all reviews show that Bruce Ward does not comply, it falling at 10.02%. We note that the deviance is very marginal, equating to .75 of a person. We assume that the difference in our calculation and the council's is probably caused by a difference approach to rounding of fractions.
21. While, in one sense, a ward is either compliant or it is not, extreme caution needs to be exercised when contemplating the need for changed boundaries based on such an extremely small level of deviance. The population statistics are themselves estimates, rounded to the nearest 10 meaning that the unrounded estimate could actually be compliant. Based on this analysis we consider that the council's proposed ward structure be endorsed.

Communities and community boards

22. 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.
23. The particular matters the territorial authority, and where appropriate the Commission, 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 also requires regard to be given to such of the criteria as apply to reorganisation proposals under the Local Government Act 2002 as is considered appropriate. The Commission sees two of these criteria as particularly relevant for the consideration of proposals relating to community boards as part of a representation review:
 - Will a community board have an area that is appropriate for the efficient and effective performance of its role?
 - Will the community contain a sufficiently distinct community of interest or sufficiently distinct communities of interest?
24. The council, in its review, did not consider that additional community boards were required, but did confirm the existence of the two existing community boards.

25. However, one appeal, from Murray Paterson, argues that the fact that two parts of the district have community boards, and the rest of the district does not, does not result in fair, even or consistent representation across the district. He contends that as the council's overall proposal is based on the notion that 14 councillors will provide effective representation for the district it should be not be necessary to have a second tier. He considered that other organisations in the community could carry out the roles currently undertaken by the boards.
26. While there may sometimes be benefits from having a consistent, district-wide approach to community boards, depending on the nature of individual districts, sometimes a different approach may be warranted.
27. The relevant legislation either enables community boards to be established in only parts of a district or does not prohibit it.¹
28. Throughout New Zealand there are different approaches to community boards. Some districts have no boards, some have complete coverage, and some have partial coverage. Among nearby districts Dunedin City, Invercargill City, Queenstown-Lakes District and Waitaki District have community boards covering only part of the district. The system in Clutha District is therefore not outside the norm.
29. We are reluctant to consider radical change to the community board structure in Clutha District on the basis of one appeal. We do, however consider, that when the council next carries out a representation review it engage more actively on the place of community boards in the district and their role.

Naming of electoral areas

30. The remaining issue to be dealt with is whether the name of the Lawrence-Tuapeka Community Board should remain as it is or be changed to Tuapeka.
31. The council's rationale for changing the name of the board was that "the name of the community board best reflects the name of the ward it is located in". No specific rationale was given in the initial proposal for changing the name of the ward or the community board.
32. The community boards opposition to this, as stated in its submission on the initial proposal, is that "Lawrence is a name recognised widely outside the area whereas Tuapeka is somewhat less known today". The appeal adds that:
 - While six councillors voted in favour of the change, three voted against, two abstained and four were absent
 - Although no residents submitted on this matter, since the process had ended community board members had received a number of calls from "dismayed residents".
33. Lawrence is the largest settlement in the ward and community with a population of approximately 440 out of a total of 1145 for the ward. Other settlements in the ward such as Beaumont and Waitahua are very small.

¹ See sections 19J and 19W, Local Electoral Act 2001, and Schedule 6, Local Government Act 2002.

34. Prior to the 1989 reorganisation Lawrence was a borough, while Tuapeka County included the rural area currently in the ward. It should be noted, however, that Tuapeka County as a whole covered a more extensive area with part of it now in the West Otago Ward and part in Central Otago District extending north of Roxburgh. We would also observe that while the name “Tuapeka” is associated with features in the current Lawrence-Tuapeka Ward (e.g. Tuapeka Flat) it is not universally so. For example, Tuapeka Mouth, where the Tuapeka River flows into the Clutha River, is located in the Clutha Valley Ward.
35. Our conclusion is that the name “Lawrence” is an important part of the identity of the area and therefore may assist in the community’s association with the ward and the community board. We therefore consider “Lawrence” should be retained in the name of both the ward and the community.

Commission’s determination

36. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Clutha District Council to be held on 12 October 2019, the following representation arrangements will apply:
 - (1) Clutha District, as delineated on Plan LG-072-2019-W-1 deposited with the Local Government Commission, will be divided into eight wards.
 - (2) Those eight wards will be:
 - (a) West Otago Ward, comprising the area delineated on Plan LG-072-2013-W-1 deposited with the Local Government Commission
 - (b) Clinton Ward, comprising the area delineated on Plan LG-072-2013-W-1 deposited with the Local Government Commission
 - (c) Lawrence-Tuapeka Ward, comprising the area delineated on Plan LG-072-2019-W-2 deposited with the Local Government Commission
 - (d) Balclutha Ward comprising the area delineated on Plan LG-072-2019-W-3 deposited with the Local Government Commission
 - (e) Catlins Ward comprising the area delineated on Plan LG-072-2019-W-4 deposited with the Local Government Commission
 - (f) Bruce Ward comprising the area delineated on Plan LG-072-2019-W-5 deposited with the Local Government Commission
 - (g) Kaitangata-Matau Ward comprising the area delineated on Plan LG-072-2013-W-1 deposited with the Local Government Commission
 - (h) Clutha Valley Ward comprising the area delineated on Plan LG-072-2019-W-56 deposited with the Local Government Commission
 - (3) The Council will comprise the mayor and 14 councillors elected as follows:
 - (a) 2 councillors elected by the electors of West Otago Ward
 - (b) 1 councillor elected by the electors of Clinton Ward
 - (c) 1 councillor elected by the electors of Lawrence-Tuapeka Ward
 - (d) 4 councillors elected by the electors of Balclutha Ward
 - (e) 1 councillor elected by the electors of Catlins Ward
 - (f) 3 councillors elected by the electors of the Bruce Ward

- (g) 1 councillor elected by the electors of the Kaitangata-Matau Ward
 - (h) 1 councillor elected by the electors of the Clutha Valley Ward.
- (4) There will be two communities as follows:
- (a) West Otago Community, comprising the area of the West Otago Ward
 - (b) Tuapeka Community comprising the area of the Tuapeka Ward
- (5) The membership of each community board will be as follows:
- (a) West Otago Community Board will comprise six elected members and two members representing West Otago Ward appointed to the community board by the council
 - (b) Lawrence-Tuapeka Community Board will comprise six elected members and one member representing Tuapeka Ward appointed to the community board by the council.
37. As required by sections 19T(b) and 19W(3) 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.

Local Government Commission

Commissioner Pita Paraone (Chair)

Commissioner Janie Annear

Commissioner Brendan Duffy

9 April 2019