



LOCAL GOVERNMENT COMMISSION

Determination

of the membership and basis of election for the
general election of the Ashburton District Council to be
held on 13 October 2001

BACKGROUND

1 The Ashburton District Council (hereafter referred to as “the Council”), as required by section 101H of the Local Government Act 1974 (hereafter referred to as “the Act”), considered its membership and the basis of the election of the Council to apply for the general election of the Council to be held in October 2001.

2 The Ashburton District Council elected at the 1998 general election comprises 12 members and the Mayor. The 12 members were elected as follows:

Ashburton Ward	6 members
Methven-Hinds Ward	4 members
Rakaia Ward	2 members.

3 Following its review, the Council proposed to retain its current system of wards and membership.

4 The Council received three objections to its proposal. The objections were from:

- AN and JE O’Brien;
- Mark and Lesley Gleason; and
- Andrew Guthrie.

AN and JE O’Brien sought the abolition of the ward structure and for the Council to be elected on an “at large” basis.

Mark and Lesley Gleason considered that the ward structure proposed by the Council was undemocratic, with the population of the Ashburton Ward returning the same number of Councillors as the population of the rural wards combined, despite

the Ashburton Ward containing the majority of the District's population. They sought elections at large, or an increase of one member to the Ashburton Ward, and a decrease of one member in the representation of the rural wards, or the creation of special Council representation for Maori. (The Commission notes that Maori representation is not provided for in the Act.)

Andrew Guthrie objected to the Council's proposal on the basis that there was a lack of informed public debate on the issue of Council representation.

- 5 Following consideration of the objections, the Council confirmed its original proposal. The three objectors each appealed the Council's decision based on the matters raised in their objections.

Preliminary Matter for Determination

- 6 The Commission, on receiving advice of the appeals, resolved that before making a determination of the electoral arrangements of the Council, it would meet with the Council, and the appellants if they wished to be heard. The Commission resolved to meet the Council and the appellants in Ashburton on 12 February 2001.

The Hearing

- 7 The Council was represented by the Mayor (Mr Murray Anderson) and the Chief Executive (Mr Brian Hasell). AN and JE O'Brien, and Mark and Lesley Gleason appeared before the Commission.

The Council: Mr Hasell outlined the technical processes followed by the Council in undertaking its review. His comments may be summarised as follows:

- the Council sought the views of the public on its review of membership and basis of election through the Council's *District Diary* and the annual resident's survey and put forward the option of retaining the current electoral arrangements as the basis for consultation;
- the annual survey of 400 residents undertaken by the National Research Bureau showed that 69.1% of respondents were in favour of the ward system and 85.7% wished to retain the same number of Councillors;
- the Council resolved to retain the current electoral arrangements, taking into account the outcome of the consultation, the residents' survey, the static population of the District, and the lack of a firm view from the community at large for a change to the existing electoral arrangements;
- the Council confirmed the status quo after the consideration of objections;
- the Council took into account the factors of rateable value and area, in addition to population, in resolving its proposals, but the Council did not adopt any specific percentages in terms of the factors that were applied; and

- nothing has materially changed in the District in terms of the communities of interest identified by the Commission in its 1995 determination.

The Mayor made the following additional comments:

- since 1995 there has been a strengthening of the economic base in the rural areas of the District; and
- diversification has occurred in the Rakaia Ward, and that ward has experienced a greater population increase than other wards.

AN and JE O'Brien: Mr and Mrs O'Brien addressed their appeal. Their comments may be summarised as follows:

- most of the population of the District resides within a 30 kilometre radius of Ashburton;
- the Council's proposal is not fair in terms of its representation;
- individuals should have the right to vote for all the Councillors to represent them;
- rural councillors are able to dominate the Council, through the support of the Mayor;
- the O'Brien's favour elections at large;
- community boards could serve parts of the District; and
- the Council has not substantiated its decision.

Mark and Lesley Gleason: Mr and Mrs Gleason spoke to a submission. Its contents and their comments may be summarised as follows:

- the Council has not provided reasons for the rejection of the Gleasons' objections to the Council's initial proposal;
- the Methven-Hinds Ward has a 30% boost in electoral representation when compared with the Ashburton Ward;
- the Council has failed to provide information that substantiates the decision that it reached;
- there were shortcomings in the Council's annual survey of residents
- the ward system is an anachronism;
- expansion of housing on the periphery of the Ashburton Ward means that housing has crossed the ward boundary, so many people who live in a rural ward work and socialise in the Ashburton Ward - to identify their community of interest as rural would be stretching a point; another problem created by the ward system is the effect of uncontested elections;
- currently 14298 urban residents return 6 Council members, while 10900 rural residents also return 6 Council members - in terms of representation this makes an urban vote worth 30% less than a rural vote; and
- election at large is one way of achieving democracy; an alternative is ward representation determined strictly on the population of each ward.

The Council in reply: The Chief Executive made the following comments:

- the Council did not have the information sought by the Gleasons relating to the reasons for its rejection of their objection to its initial proposal; and
- if the weightings of 80% population, 10% rateable value and 10% area are applied then the Ashburton Ward would be entitled to 5.76 members, the Methven-Hinds Ward 4.13 members, and the Rakaia Ward 2.12 members.

MATTERS FOR DETERMINATION

- 8 The statutory provisions in respect of these appeals are contained in sections 101K and 101L of the Act. Section 101K(1) states:

- “(1) The Commission shall, before the 29th day of March of the year of each triennial general election,-*
- (a) Consider the resolutions, objections, appeals, counter-objections, and information forwarded to it under section 101J of this Act; and*
 - (b) Subject to section 101L of this Act, determine the number of wards or constituencies and their names and boundaries, and the number of members to be elected by the electors of each ward or constituency or, as the case may be, by the electors of the district as a whole.”*

- 9 The relevant provisions of section 101L are subsections (2) and (3) which state:

- “(2) In determining whether the council is to be elected by the electors of the district as a whole or by the electors of two or more wards and in determining (where necessary) the number and boundaries of wards, the territorial authority and, where appropriate, the Commission shall ensure-*
- (a) That the election of members of the council by the electors of the district as a whole or by the electors of the 2 or more wards whose number and boundaries are determined will provide effective representation of communities of interest within the district; and*
 - (b) That ward boundaries coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes; and*
 - (c) That, so far as is practicable, ward boundaries coincide with community boundaries.*
- “(3) In determining the number of members to be elected by the electors of any constituency or ward, the council and, where appropriate, the Commission shall ensure that the electors of the constituency or ward receive fair representation having regard to the population of every constituency or ward within the region or district and, if the*

circumstances so require, the rateable values, areas, or other relevant characteristics of the various constituencies or wards.”

Consideration by the Commission

10 The Commission considers that when deciding:

- (a) whether the election of the members of a council (other than the Mayor) be by the electors of the whole district or on a ward basis;
- and
- (b) if on a ward basis, the number and boundaries of the wards,

that the only criterion to be met within the terms of section 101L(2) is the provision of effective representation of the various communities of interest within the district. This can be achieved by any ward encompassing one or more communities of interest. What the Commission has to do then is determine which communities of interest or groupings of communities of interest require representation.

11 The Commission further considers that when deciding on the number of councillors to be elected by the electors of any ward, the sole criterion to be met under section 101L(3) is the provision of fair representation for the electors of the various wards within the district. In deciding this fairness of representation, the Commission must have regard primarily to population, but if this factor alone does not, in the opinion of the Commission, achieve fairness then regard should be given to rateable value and area or other relevant characteristics of the various wards. In the opinion of the Commission, population must constitute the predominant factor, but if other factors are applied, different weightings can be applied to all factors as are appropriate in any given circumstances. The Commission does not consider that any particular formula must be applied and consequently, any mathematical calculation should be seen only as a guide to a level of fairness which can be achieved on the basis of the factors required to be taken into account under the provisions of the Act. In the end though, the final decision must be that which the Commission considers will, after having regard to the various criteria set out in the Act, provide the fairest representation on balance for the electors of each ward.

12 In the Commission’s opinion, its first responsibility, which also applied to the Council, was to decide whether or not the District should be divided into wards, and if so the number and boundaries of those wards to provide effective representation of communities of interest within the District.

13 The Ashburton District is a large area, with relatively flat terrain in most of the District except for the sparsely populated mountainous areas in the west. The majority of the District’s population lives in the Ashburton urban area, which services the large rural area of the District.

- 14 Arguments were put forward by the appellants for the ward system to be abolished and for the Council to be elected on an “at large” basis. The issue for the Commission to consider in determining whether there should be wards or not, is whether wards are required to provide effective representation for communities of interest in the District. The Commission is of the view that, at this time, the rural areas of the District maintain a common community of interest that is distinct from the relatively densely populated urban area of Ashburton, and that as a result, a ward system remains appropriate to provide effective representation for those communities of interest.

Appropriate Ward System

- 15 Having decided that the basis of election would be the ward system, the Commission then had to consider the number and boundaries of wards necessary to ensure the effective representation of the various communities of interest in the District. The Commission does not consider that section 101L envisages that individual communities of interest need separate representation. Its sole requirement in this regard is that the representation of communities of interest must be effective.
- 16 The Commission emphasises that wards are for electoral purposes only, and that the Council is the entity to which members are elected.
- 17 In the Commission’s view, where it is appropriate for a district to be divided into wards, there should be such number as is necessary and consistent with the concept of effective representation of various communities of interest.
- 18 The Council has proposed that the District be divided into 3 wards, based on the wards that applied for the 1995 and 1998 elections of the Council. Of the existing wards, one ward encompasses the urban area of Ashburton, while the other two wards take in the rural areas of the District.
- 19 The Commission is of the view that a ward encompassing the urban area of Ashburton is appropriate to provide for the effective representation of that community of interest.
- 20 The rural area of the District is large, relative to the urban area. The Council has proposed retaining the two rural wards that were first determined by the Commission for the 1995 elections. In the Commission’s view, the two proposed rural wards - the Rakaia Ward and the Methven-Hinds Ward - will continue to provide for the effective representation of electors residing in those wards. The Methven-Hinds Ward takes in the sparsely populated mountainous areas in the western part of the District, while the Rakaia Ward is much smaller but contains approximately 40% of the rural population of the District.

- 21 Having considered the evidence presented to it at the hearing of the appeals, and other material gathered by it, the Commission is satisfied that the wards proposed by the Council more or less equate to the communities of interest requiring separate representation on the Council. In coming to that conclusion, the Commission considered the distinct nature of each community and the geographical characteristics of the District.

Number of Members

- 22 Having decided that there will be 3 wards, the Commission is then required to determine what would be fair representation for the electors of the various wards.
- 23 As noted above, the number of members to be elected by each ward is to be determined on the basis of providing fair representation for the electors of the various wards having regard to population and, if the circumstances so require, the rateable value and area of every ward.
- 24 Set out below are two tables. Table 1 shows the number of members that each ward would be entitled to taking into account population only with a total membership of 12 (excluding the Mayor) as proposed by the Council, or with a total membership of 11 or 13. Table 2 shows the same information taking into account the three factors of population weighted at 80%, rateable capital value weighted at 10%, and area weighted at 10%. The population figures applied in the tables are 1996 Census population figures provided by Statistics New Zealand.

Table 1

Ward	Population	%	11 members	12 members	13 members
Ashburton	14300	56.74	6.24	6.81	7.37
Methven-Hinds	6700	26.59	2.93	3.19	3.46
Rakaia	4200	16.67	1.83	2.00	2.17

Table 2

Ward	Factor Value	11 members	12 members	13 members
Ashburton	48.00	5.28	5.76	6.24
Methven-Hinds	34.29	3.77	4.11	4.46
Rakaia	17.71	1.95	2.13	2.30

- 25 Given the diversity of the District in terms of its rural and urban communities, the Commission has given consideration to applying factors of rateable value and area, in addition to that of population. The inclusion of the two additional factors of area and rateable value enable two measures of Council activity to be taken into account. The use of area as a factor enables recognition to be given to the fact that land-based activities over less densely populated areas are a significant part of the responsibilities and expenditure of the Council. The use of rateable value enables

due regard to be given to people-based activities which require the provision of services and infrastructure and the regulation of development in more closely settled areas.

- 26 One of the appellants considered that if a ward structure was to be retained, representation should be determined on the basis of population alone. While a reasonable degree of fairness for each ward can be achieved on the basis of population alone, the Commission is of the view that the application of the additional factors of rateable value and area are appropriate to reflect the relative size and significance of the rural areas of the District. The weightings applied by the Commission are those commonly applied to districts with a significant proportion of rural land.
- 27 Having considered all aspects of the matter of representation, the Commission has concluded that the membership of the Council should total 12 members and the Mayor, taking into account population, rateable value and area on the basis outlined above.

DETERMINATION

- 28 Under section 101K of the Act, the Commission determines that for the general election of the Council to be held on 13 October 2001 -
- (1) The Ashburton District as delineated on S.O. Plan 19410 deposited with the Chief Surveyor of the Canterbury Land District, shall be divided into 3 wards;
 - (2) Those 3 wards shall be -
 - (a) The Ashburton Ward, comprising the area delineated on S.O. Plan No. 19411 deposited with the Chief Surveyor of the Canterbury Land District:
 - (b) The Methven-Hinds Ward, comprising the area delineated on S.O. Plan No. 19412 deposited with the Chief Surveyor of the Canterbury Land District:
 - (c) The Rakaia Ward, comprising the area delineated on S.O. Plan No. 19413 deposited with the Chief Surveyor of the Canterbury Land District;
 - (3) The Council shall comprise the Mayor and 12 members who shall be elected as follows -

- (a) six members shall be elected by the electors of the Ashburton Ward;
- (b) four members shall be elected by the electors of the Methven-Hinds Ward; and
- (c) two members shall be elected by the electors of the Rakaia Ward.

29 As required by section 101L(2) of the Act, 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

Sir Ross Jansen	(Chairman)
Barbara Durbin	(Commissioner)
Bruce Anderson	(Commissioner)

27 March 2001