



LOCAL GOVERNMENT COMMISSION

Determination

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

BACKGROUND

- 1 The Christchurch City 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 Christchurch City Council elected at the 1998 general election comprises 24 members and the Mayor. The 24 members were elected as follows:

Burwood Ward	2 members
Fendalton Ward	2 members
Ferrymead Ward	2 members
Hagley Ward	2 members
Heathcote Ward	2 members
Papanui Ward	2 members
Pegasus Ward	2 members
Riccarton Ward	2 members
Shirley Ward	2 members
Spreydon Ward	2 members
Waimairi Ward	2 members
Wigram Ward	2 members.

- 3 Following its review, the Council proposed to retain its current system of wards and membership, except for the transfer of Meshblocks 2700800, 2555500 and 2555800 from the Ferrymead Ward to the Pegasus Ward.

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- 4 The Council received four objections to its proposal. The objections were from:
- Phil Clearwater;
 - Ronald Currie and Pamela Hughes;
 - The Sydenham Business & Community Association (Inc.); and
 - Waltham Community Cottage.

Phil Clearwater sought the transfer of the Sydenham business district and an area of four meshblocks in Waltham from the Hagley Ward to the Heathcote Ward, and the transfer of two meshblocks in the Avoca Valley area from the Heathcote Ward to the Ferrymead Ward.

The three other objectors all argued for the boundary changes affecting the Sydenham business district and the Waltham area, as sought by Mr Clearwater.

- 5 Following consideration of the objections, the Council confirmed its original proposal. The Council's public notice confirming its original proposal outlined the reasons for rejecting the objections as follows:

"The Council formed the view that it should not agree to the alterations sought by the objectors, for the reasons that the proposed alterations should not be implemented without a comprehensive review of all ward boundaries, the perceived lack of proper consultation regarding the alterations sought, and the desirability of reconsidering the issues raised by the objectors as part of the comprehensive review of all ward and community boundaries required to be carried out by the Council as part of the next triennial election review to be carried out in 2003, across the city as a whole."

- 6 Mr Clearwater appealed the Council's decision, based on the matters raised in his objection to the Council's initial proposal.

Preliminary Matter for Determination

- 7 The Commission, on receiving advice of the appeal, resolved that before making a determination of the electoral arrangements of the Council, it would meet with the Council, and the appellant if he wished to be heard. The Commission resolved to meet the Council and the appellant in Christchurch on 12 February 2001.

The Hearing

- 8 The Council was represented by Councillor David Close, Councillor Denis O'Rourke, Councillor Ian Howell, the Legal Services Manager (Peter Mitchell) and the Council Secretary (Max Robertson). The appellant appeared before the Commission, and was supported by the following witnesses:

- Annette Bunting, Waltham Community College;
- Pam Hughes, Waltham Out of School Hours Group;
- Sandra Constable, Sydenham Residents Group;
- Dr Edith Devonish, Sydenham Business & Community Association;
- Don Hammond, Waltham Community Cottage;
- Andrew McIntosh, Sydenham Business & Community Association;
- Oscar Alpers, Spreydon-Heathcote Community Board;
- Anna Crighton, Councillor - Hagley Ward; and
- Elizabeth Munsell, Spreydon-Heathcote Community Board.

The Council: Cr Close spoke to a submission. Its contents, his comments and replies to questions may be summarised as follows:

- Christchurch lacks distinctive geographical features (with the exception of the Port Hills);
- most suburbs lack clear boundaries and merge imperceptibly with one another, making the task of drawing ward boundaries by community of interest a difficult task;
- it is inevitable that, no matter where boundaries are drawn, there will be some community facilities that are close to the boundary but on different sides of it;
- in a City of the nature of Christchurch it is inevitable that wards will split some communities of interest to some degree;
- in triennial reviews undertaken by the Council there has always been support for the status quo, and the Council has agreed to minor boundary alterations whenever the relevant community boards have been in agreement on the changes;
- the Commission, in rejecting the appeal against the Council's proposals for the 1998 elections, recommended a thorough review before the 2001 elections;
- the thorough review was conducted earlier than planned because of the need to consider changes if Banks Peninsula joined the City;
- the three local Commissioners endorsed the ward system but recommended major changes in the configuration of wards - a common view was that, in drawing boundaries to unite perceived communities of interest, the local Commissioners had divided other long-standing communities of interest;
- the Council rejected the local Commissioners' report in favour of the status quo - in the view of the Council there was not merit in adopting a new system, with its attendant cost and confusion, that appeared to have been less successful in catering for community of interest than the current electoral arrangements;
- for the current review, the Hagley-Ferrymead and Spreydon-Heathcote Community Boards agreed to certain boundary changes between their wards - the Council later rejected the changes supported by the Spreydon-Heathcote Community Board;

- when the Strategy and Resources Committee heard Mr Clearwater's objections, some members of the Committee recognised that some of the arguments put forward by Mr Clearwater on the basis of community of interest had merit, in particular, the use of the railway line as a boundary;
- Committee members were not convinced, however, that the community of interest of the Sydenham business district lies with the area south of Brougham Street, nor were they convinced that that area or other areas were inadequately represented;
- the effect of the proposed boundary changes would reduce the population of the Hagley Ward to make it the least populated ward, and to increase the population of the Heathcote Ward to make it one of the largest wards by population - this goes against having wards with equality of population;
- Committee members considered it unwise to make piecemeal changes and decided to recommend that the issues raised by the objectors be reconsidered as part of the city-wide review required to be conducted by the Council in 2003;
- while the members of the Committee noted the arguments in support of the changes on the grounds of community of interest, they were not convinced that the arguments were sufficiently strong to override the community of interest under the current boundaries and the representation which is accorded to the area; and
- the Council's view is that the current boundaries should be retained.

Cr Close also read a submission on behalf of Aaron O'Brien, a member of the Hagley-Ferrymead Community Board. Its contents may be summarised as follows:

- Mr O'Brien supports retention of the current boundaries between the Hagley-Ferrymead and Spreydon-Heathcote Community Boards;
- from time to time issues arise that affect areas of the Hagley Ward which are divided on paper by a ward boundary - the Hagley-Ferrymead Community Board has endeavoured to work with neighbouring Boards where an issue affects both respective communities;
- a split community of interest requires the affected Community Boards to work together;
- when two Boards work together it creates a greater pool of elected members to work on the issue and also gives access to two Boards for funding assistance;
- the Hagley-Ferrymead Community Board takes an active interest in the areas proposed by the appellant for transfer to the Heathcote Ward, including funding the North Waltham improvement plan;
- the Board makes regular requests to Council for capital works in the North Waltham and Sydenham areas within the Hagley Ward; and
- boundary changes should be reviewed in a wider context.

Cr Howell spoke to a submission. Its contents may be summarised as follows:

- the piecemeal proposals to change ward boundaries fail to take a wide, realistic and accurate appreciation of the overall Hagley and Heathcote situations - they focus on relatively small issues, without full public consultation, and do not evaluate the overall flow-on effect on the wards;
- about 270 people affected by the Sydenham boundary proposal live around Antigua and Montreal Streets and informal inquiries show that these residents do not regularly go into central Sydenham but go north;
- most residents Mr Howell spoke to felt that if there was to be a ward change they had a closer affiliation with the Spreydon Ward;
- the Sydenham area is no longer residential and the expanding business service links are more to the city, than the suburb;
- this year's Census should show a widening population gap between the Hagley and Heathcote Wards, even without the proposed boundary changes - this emphasises the importance of ward changes being evaluated on a city-wide basis, using factual up-to-date information;
- a full review of the 12 wards will be held in 2003 - surely that is the time to make changes;
- in the case of Sydenham a review must take into account the views of a growing number of employment creating businesses in the whole business area;
- Mr Howell has not seen any submissions from any Avoca residents or community groups regarding the proposed boundary change for that area; and
- there was not unanimous support for the boundary changes among the Community Boards affected by the proposals.

Cr O'Rourke made the following comments:

- it is sad that this matter is being considered in the absence of a review of the ward boundaries of the City as a whole;
- it is unwise to make minor boundary changes without looking at the boundaries of all the wards;
- the proposed changes are driven by people residing in the Heathcote Ward;
- piecemeal changes are bound to cause problems;
- any changes made now may be undone in a short period of time;
- North Waltham has been subject to urban renewal and the residents of that area look towards the north for shopping;
- the changes proposed are not sensible - the boundary should go south to Waltham Road so that the whole of Waltham is included in the Hagley Ward;
- the Hagley Ward is unique in having common boundaries with eight other wards;
- the Sydenham business district has much more in common with the central City than with the residences to the south; and

- a thorough review of the Council's electoral arrangements would have happened for the forthcoming elections if the Banks Peninsula proposal had not diverted the focus of the Council.

Phil Clearwater: Phil Clearwater addressed his appeal. His comments and replies to questions may be summarised as follows:

- there are severe problems being caused for local residents because of the existing boundaries;
- the concession by Cr Close that the railway line is a practical boundary is noted;
- there are serious socio-economic problems in the areas subject to the appeal; and
- the Hagley-Ferrymead Community Board has supported the proposed boundary changes.

Sandra Constable appeared as a witness in support of Mr Clearwater's appeal. Her comments may be summarised as follows:

- the appeal focuses on the issue of local community representation;
- Sydenham is currently divided by the Brougham Street boundary;
- the boundary has made it difficult to achieve the common goals of the local residents' group; and
- the proposed boundary changes would strengthen local communities.

Andrew McIntosh appeared as a witness in support of Mr Clearwater's appeal. His comments may be summarised as follows:

- Sydenham has one of the last strip shopping areas in Christchurch and is a dynamic business area;
- the retail area is at the crossroads, with there being more empty shops than ever before; and
- having one ward covering the entire business area of Sydenham makes sense.

Oscar Alpers appeared as a witness in support of Mr Clearwater's appeal. His comments may be summarised as follows:

- the Sydenham business district has its own identity separate to the City;
- the railway line is a clear boundary between communities;
- the Brougham Street boundary separates the Sydenham commercial area from its residential area;
- the eight options considered by the local Commissioners all showed the railway line as a boundary of communities; and
- it is the wish of both affected community boards for the ward and community boundaries to be changed.

Cr Anna Crighton appeared as a witness in support of Mr Clearwater's appeal. Her comments may be summarised as follows:

- the persistence of residents has kept the issue of changing the boundary between the Hagley and Heathcote Wards alive;
- Sydenham is one of the oldest parts of the City, and has its own history and uniqueness; and
- the residents of the area look towards the south and the Beckenham service centre.

Elizabeth Munsell appeared as a witness in support of Mr Clearwater's appeal. She commented that the Sydenham business and residential areas are inter-dependent, and have no real association with the Hagley Ward.

Annette Bunting appeared as a witness in support of Mr Clearwater's appeal. She commented that the Waltham Community Cottage has an association with the Spreydon-Heathcote Community Board, but the Cottage is now located in the Hagley Ward.

Don Hammond appeared as a witness in support of Mr Clearwater's appeal. His comments may be summarised as follows:

- Waltham is a lower socio-economic area, with the highest level of single parent families in Christchurch; and
- community programmes have attempted to bring the Waltham community back together again, and they have been assisted by the Spreydon-Heathcote Community Board.

Pam Hughes appeared as a witness in support of Mr Clearwater's appeal. Her comments may be summarised as follows:

- Waltham fights hard to retain its sense of community;
- the current ward boundary makes the area an isolated pocket; and
- Waltham has a strong relationship with the Spreydon-Heathcote Community Board.

Dr Edith Devonish appeared as a witness in support of Mr Clearwater's appeal. Her comments may be summarised as follows:

- it should be noted that while the Council has proposed a small boundary change itself, the boundary changes proposed by Mr Clearwater are considered by the Council to be "piecemeal";
- the boundary proposals have arisen from the Sydenham Needs Analysis, which involved comprehensive consultation with all relevant groups and a considerable number of individuals;
- there has been no interest shown from members of the Hagley Ward in the meetings of the Sydenham Business & Community Association, other than by Cr Anna Crighton with regard to heritage buildings in the Sydenham business district;
- waiting until the next electoral review is unacceptable - the problem has to be attended to now; and

- the reasons for the Council’s refusal appear superficial and contradictory.

The Council in reply: Cr Close made comments that may be summarised as follows:

- the statements made by the appellant and his witnesses are true in their own right but are not relevant to electoral matters;
- the socio-economic problems of the Sydenham and Waltham areas will not be solved through an adjustment of electoral boundaries;
- Cr O’Rourke’s suggestion that the boundary between the Hagley and Heathcote Wards should go south is telling; and
- people in the affected area may have developed good relationships with the Spreydon-Heathcote service centre, but that is not a reason for changing ward boundaries.

MATTERS FOR DETERMINATION

- 9 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.”*

- 10 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

11 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.

12 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.

- 13 In the Commission's opinion, its first responsibility, which also applied to the Council, was to decide whether or not the City 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 City.
- 14 Christchurch City has the second highest population of any local authority in New Zealand. While the City is not divided by major geographic features, it does contain a large number of communities of interest. The Commission is satisfied that a number of these communities are sufficiently distinct to warrant separate representation on the Council.
- 15 In reaching its decision, the Commission noted that the Council did not receive any objection or appeal opposed to the concept of a ward system for the City.

Appropriate Ward System

- 16 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 City. 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.
- 17 The Commission emphasises that wards are for electoral purposes only, and that the Council is the entity to which members are elected.
- 18 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.
- 19 The Council has proposed that the City be divided into 12 wards. Other than for minor boundary alterations, these wards are the same as those prescribed when the current City was constituted in 1989.
- 20 The appellant did not express any views about retaining the current system of 12 wards; his arguments at the hearing focused on the boundary between the Hagley and Heathcote Wards splitting a long-standing community of interest. The Commission notes that while the Council decided to reject the appellant's earlier objection relating to the boundary change he sought, it did acknowledge at the hearing that some existing ward boundaries divide communities of interest.
- 21 In the hearing of the appeal against the Council's proposals in respect of the 1998 elections, the Council made the same acknowledgement that the present wards boundaries divide some communities of interest. Given this acknowledgement to the Commission on two occasions, the Commission considers it unacceptable for the

Council to have made no changes to the current ward arrangements, other than for a minor boundary alteration between the Ferrymead and Pegasus Wards.

- 22 The Commission is also concerned that the Council, having commissioned a comprehensive and independent review of its electoral arrangements in 1999, rejected the recommendations of the local commissioners and simply decided to retain the status quo. No evidence was provided to the Commission that indicated the Council made any endeavour to remedy the divisions of community of interest inherent in the current ward system, that it had earlier acknowledged existed.
- 23 It was submitted, on behalf of the Council, that a major reason for the Council not proposing revised electoral arrangements for the 2001 election was the adverse impact on the time and resources of the Council of the proposal for the amalgamation of Banks Peninsula District and Christchurch City. The Commission finds that argument unconvincing. The issue of reviewing the electoral arrangements of the City is sufficiently important that the Council should undertake it in an appropriate consultative manner and without unnecessary delay.
- 24 The Commission expects the Council to meet its assurances of undertaking a thorough review of its membership and basis of election for the 2004 elections. Given the recognition that the current ward system divides some communities of interest, the Commission would expect significant substantive changes to be made to the ward system as a result of the review. The Commission also expects the Council to make publicly available its identification and analysis of communities of interest, including options considered for their appropriate grouping into wards and the reasons for deciding on the option that the Council considers best meets the legislative criteria.
- 25 The Commission considered the Council's proposal for the transfer of three meshblocks from the Ferrymead Ward to the Pegasus Ward. This proposal relates to an area of water and has the support of the local Community Boards and was not objected to by the appellant. The Commission has determined that this boundary alteration should proceed.
- 26 The appellant sought the transfer of the Sydenham business district and an area of four meshblocks in Waltham from the Hagley Ward to the Heathcote Ward, and the transfer of the Avoca Valley area from the Heathcote Ward to the Ferrymead Ward.
- 27 With regard to the Sydenham business district and the Waltham area, the appellant and his witnesses gave compelling evidence to the Commission that the existing boundary between the Hagley and Heathcote Wards does split a long-standing community of interest in these areas. The Commission is satisfied that effective representation of these areas will be enhanced through their transfer from the Hagley Ward to the Heathcote Ward.

- 28 The appellant's proposal that the Avoca Valley area should be transferred from the Heathcote Ward to the Ferrymead Ward was not discussed by the appellant during the hearing. Given the lack of evidence to support this proposal, the Commission has determined that the existing ward boundary in this area should be retained.

Number of Members

- 29 The following table shows the population of each ward, and each ward's population as a percentage of the City as a whole.

Ward	Population	Percentage of City's total population
Burwood	26130	8.45
Fendalton	26380	8.54
Ferrymead	26442	8.56
Hagley	24028	7.78
Heathcote	26796	8.67
Papanui	27246	8.82
Pegasus	24347	7.88
Riccarton	26715	8.64
Shirley	24815	8.03
Spreydon	24616	7.96
Waimairi	25378	8.21
Wigram	26135	8.46

- 30 The table above shows that the variation in the population between wards is relatively minor. The variation is insignificant in terms of influencing the level of representation between wards.
- 31 In considering the 12 wards of the Council, and having regard to their respective populations, the Commission is satisfied that the provision of two members for each ward will provide for the fair representation of the electors of each ward.
- 32 In undertaking its thorough and fundamental review for the 2004 elections, the Council will need to consider the issue of fairness of representation when considering any new ward options that will arise from the review.

GENERAL COMMENT

- 33 In its arguments to the Commission, the Council placed importance on wards having equality of population, and expressed concern that the boundary changes to wards

proposed by the appellant would worsen population variances between wards. Under the Act, the Council, in undertaking its review, is required to identify communities of interest requiring separate representation by way of wards, and to then determine what would be fair representation for the electors of each ward. In following this legislative approach, the Commission considers it unlikely that ward arrangements designed to appropriately reflect distinct communities of interest requiring separate representation would result in all wards having equality of population. Equality of population is not a prerequisite to achieving fairness of representation.

DETERMINATION

- 34 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) Christchurch City, as delineated on S.O. Plan 19955 deposited with the Chief Surveyor of the Canterbury Land District, shall be divided into 12 wards;
 - (2) Those 12 wards shall be -
 - (a) The Burwood Ward, comprising the area delineated on S.O. Plan No. 19954 deposited with the Chief Surveyor of the Canterbury Land District:
 - (b) The Fendalton Ward, comprising the area delineated on S.O. Plan No. 18075 deposited with the Chief Surveyor of the Canterbury Land District:
 - (c) The Ferrymead Ward, comprising the area delineated on S.O. Plan No. 301310 deposited with the Chief Surveyor of the Canterbury Land District:
 - (d) The Hagley Ward, comprising the area delineated on S.O. Plan No. 301311 deposited with the Chief Surveyor of the Canterbury Land District:
 - (e) The Heathcote Ward, comprising the area delineated on S.O. Plan No. 301312 deposited with the Chief Surveyor of the Canterbury Land District:
 - (f) The Papanui Ward, comprising the area delineated on S.O. Plan No. 19428 deposited with the Chief Surveyor of the Canterbury Land District:

- (g) The Pegasus Ward, comprising the area delineated on S.O. Plan No. 301313 deposited with the Chief Surveyor of the Canterbury Land District:
 - (h) The Riccarton Ward, comprising the area delineated on S.O. Plan No. 19943 deposited with the Chief Surveyor of the Canterbury Land District:
 - (i) The Shirley Ward, comprising the area delineated on S.O. Plan No. 18076 deposited with the Chief Surveyor of the Canterbury Land District:
 - (j) The Spreydon Ward, comprising the areas delineated on S.O. Plan No. 19944 deposited with the Chief Surveyor of the Canterbury Land District:
 - (k) The Waimairi Ward, comprising the area delineated on S.O. Plan No. 18072 deposited with the Chief Surveyor of the Canterbury Land District:
 - (l) The Wigram Ward, comprising the area delineated on S.O. Plan No. 19942 deposited with the Chief Surveyor of the Canterbury Land District;
- (3) The Council shall comprise the Mayor and 24 members who shall be elected as follows -
- (a) two members shall be elected by the electors of the Burwood Ward;
 - (b) two members shall be elected by the electors of the Fendalton Ward;
 - (c) two members shall be elected by the electors of the Ferrymead Ward;
 - (d) two members shall be elected by the electors of the Hagley Ward;
 - (e) two members shall be elected by the electors of the Heathcote Ward;
 - (f) two members shall be elected by the electors of the Papanui Ward;
 - (g) two members shall be elected by the electors of the Pegasus Ward;
 - (h) two members shall be elected by the electors of the Riccarton Ward;
 - (i) two members shall be elected by the electors of the Shirley Ward;
 - (j) two members shall be elected by the electors of the Spreydon Ward;
 - (k) two members shall be elected by the electors of the Waimairi Ward;
- and

- (1) two members shall be elected by the electors of the Wigram Ward.

- 35 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