



## LOCAL GOVERNMENT COMMISSION

# Determination

**of the membership and basis of election for the  
general election of the Franklin District Council to be  
held on 9 October 2004**

### BACKGROUND

- 1 The Franklin District Council (“the Council”) undertook a review of the membership and basis of election of the Council and of community boards under sections 19H and 19J of the Local Electoral Act 2001 (“the Act”). On 13 and 14 August 2003 the Council resolved the initial proposed electoral arrangements to apply for the general election of the Council to be held in October 2004.
- 2 The Council elected at the 2001 general election comprises 14 members and the Mayor. The 14 members were elected as follows:

Awhitu Ward	2 members
Waiuku Ward	2 members
Patumahoe Ward	2 members
Pukekohe Ward	4 members
Onewhero-Tuakau Ward	2 members
Hunua Ward	2 members
- 3 Elections were held for two community boards in the District at the 2001 general election. The boards and their membership are:
  - The Onewhero-Tuakau Community Board – six elected members
  - The Waiuku-Awhitu Community Board – six elected members
- 4 Following its review, the Council proposed the following electoral arrangements as its initial proposal:

### *Council*

The Council would continue to comprise the Mayor and 14 members elected from the existing wards.

### *Communities*

The two existing communities – Onewhero-Tuakau and Waiuku-Awhitu – would be abolished.

- 5 The Council received 676 submissions to its initial proposal. The submissions covered a range of issues including:
  - Support for the Council’s proposal
  - Opposition to the Council’s proposal in general
  - Opposition to the abolition of the community boards
  - Proposing community boards across the whole district
- 6 Following consideration of the submissions, the Council confirmed its initial proposal as its final proposal.
- 7 Twenty-four appeals were received against the Council’s final proposal. The subject matter of the appeal included the following:
  - The Onewhero-Tuakau and Waiuku-Awhitu Community boards should be retained
  - The membership of the Council should be reduced

### **Hearing**

- 8 The Commission, on receiving advice of the appeals and objections, decided that it would meet with the Council and the appellant if they wished to be heard. The Commission resolved to meet with the Council and appellant in Pukekohe on 17 November 2003.
- 9 The Council and 15 appellants appeared before the Commission at the hearing. The Council outlined its proposal, and the appellants spoke to their submissions.

### **MATTERS FOR DETERMINATION**

- 10 The statutory provisions in respect of these appeals and objections are contained in sections 19R, 19I 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 When applying the provisions detailed above, the principles of the Act (set out in section 4 of the Act) need to be taken into account of, particularly the principle of fair and effective representation for individuals and communities.

**Consideration by the Commission**

12 The Commission considers that when deciding the basis of election of the Council, i.e. whether the Council should be elected at large, or by wards, or

partly by wards and parts at large, the criterion to be met within the terms of section 19T is the provision of effective representation of the various communities of interest within the District. The Commission must determine which communities of interest or groupings of communities of interest require representation. If wards are considered to be appropriate, then any particular ward may encompass one or more communities of interest.

- 13 Section 19V provides that the electors of the various wards within the District must receive fair representation. Section 19V(3) provides that the requirements of section 19V(2) may only be set aside in the circumstances where the Commission considers that island or isolated communities require specific representation. The provisions of section 19(V) which are relevant to the Commission's consideration are subsections (1),(2) and (3), as follows:

**19V. Requirement for fair representation and other factors in determination of membership for wards, constituencies, and subdivisions**

- (1) *In determining the number of members to be elected by the electors of any ward or constituency or subdivision, the territorial authority or regional council and, where appropriate, the Commission must ensure that the electors of the ward or constituency or subdivision receive fair representation, having regard to the population of every district or region or community and every ward or constituency or subdivision within the district or region or community.*
- (2) *For the purposes of giving effect to subsection (1), the territorial authority or regional council and, where appropriate, the Commission must ensure that the population of each ward or constituency or subdivision, divided by the number of members to be elected by that ward or constituency or subdivision, produces a figure no more than 10% greater or smaller than the population of the district or region or community divided by the total number of elected members (other than the mayor, if any).*
- (3) *Despite subsection (2),—*
  - (a) *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):*
  - (b) *if the regional council or the Commission considers that effective representation of communities of interest so requires, constituencies may be defined and membership distributed between them in a way that does not comply with subsection (2).*

- 14 The Commission notes that any preliminary ward arrangements determined to reflect communities of interest might need to change to ensure that the population to member ratio requirement of section 19V(2) is met, unless it is satisfied that island or isolated communities require separate representation to achieve effective representation.

- 15 The Commission's first responsibility 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.
- 16 The Franklin District covers a reasonably large and diverse area. It includes the significant urban area of Pukekohe, a number of smaller townships, and the significant rural areas. The Commission came to the view that because of the size and diversity of the District, effective representation of communities of interest could only be achieved by councillors being elected on a ward basis. In reaching this decision Commission noted that there were no submissions or appeals objecting to this element of the Council's proposal.

### **Appropriate Ward System and Membership**

- 17 Having decided that the basis of election would be the ward system, the Commission then considered 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 19T 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.
- 18 The Commission emphasises that wards are for electoral purposes only, and that the Council is the entity to which members are elected.
- 19 In the Commission's view, where a district is to be divided into wards, there should be such number of wards as is necessary and consistent with the concept of effective representation of various communities of interest. In this regard the requirements of section 19V(2) also need to be taken into account, as the population that each ward member represents must be generally similar across the District.
- 20 The Commission considered that within broad terms the existing wards did define appropriate communities of interest. However, in the context of its decisions on community boards it considered that the number of members elected from those wards is more than is required to provide effective representation of communities of interest and that some other configuration of wards may therefore be more appropriate. As part of its pre-review consultation phase the Council had identified a different ward structure – Option 2. This involved four wards electing 12 members. In the pre-review consultation this option received almost identical support as the status quo.
- 21 The Commission is satisfied that the wards forming part of Option 2 define communities of interest requiring separate representation on the Council and result in a total number of members that will ensure effective representation of those communities of interest. In coming to that conclusion, the Commission considered the distinct nature of each community and the geographical characteristics of the District.

- 22 Applying the ward changes outlined above to a total Council of 12 members (excluding the Mayor) enables the requirements of section 19V(2) to be met, as follows:

Ward	Members	Population per member	Ward Population (2001 Census)
Waiuku-Awhitu	3	4357	13071
Northern	3	4370	13110
Hunua-Waikato	3	4097	12291
Pukekohe	3	4393	13179

(The population per member falls within the range of 4304+/-10% (3874 to 4734). The District's total usually resident population at the time of the 2001 Census was 51651.)

- 23 Having considered all aspects of the matter of Council representation the Commission has concluded that the membership of the Council should total 12 members elected from four wards, and the Mayor.

### Community Boards

- 24 The Council proposed that the two existing Community Boards should be abolished. This element of the Council's final proposal was almost the sole focus of appeals.
- 25 The Council gave the following reasons for this decision in the public notice of its final proposal:
- There is no need for a second layer of representation in the Onewehro-Tuakau, Waiuku and Awhitu wards;
  - There is no evidence to suggest there are any particular communities of interest requiring community boards;
  - Community groups or other community structures could serve the communication and consultation needs of the district;
  - Having community boards in only two areas is inequitable;
  - Feedback from an earlier round of consultation did not indicate support for community boards in other parts of the district.
- 26 It is clear from the submissions made to the Commission by those concerned about the proposed disestablishment of the community board system in the District that community boards are considered to be effective advocates for their local communities. At the hearing the Commission was informed of a number of examples where community boards had enabled local issues to be resolved or brought to the attention of the Council.
- 27 The Commission is satisfied that the retention of community boards is desirable to provide a means for local issues to be addressed, and to complement the District-wide perspective of the Council. The Commission was not convinced that use of community groups would provide a more effective mechanism than community boards for the communication with the community. Both systems have a place but coupled with the exercise of

Council related functions by community boards the existence of boards has the opportunity to give a focus to consultation and communication. The Commission does not consider the fact that only two parts of the district to have community boards to be inequitable. The existence of boards in those areas reflects in part the distinctiveness of those areas within the district. They are for example the only parts of the district to have to have significant townships outside of Pukekohe. That helps determine their character and community of interest.

- 28 The Commission has therefore determined that there should be a Waiuku-Awhitu Community Board covering the area of the new Waiuku-Awhitu Ward and an Onewhero-Tuakau Community Board covering the area of the existing Onewhero-Tuakau Ward.
- 29 The Commission considered that each Community Board should each have four elected members and one appointed member. The Commission considers that this will provide effective representation for the residents of each community. The Commission is satisfied that subdivisions of the communities are not required for effective representation.

## **GENERAL COMMENTS**

- 30 The Commission encourages territorial authorities that have community boards constituted within their areas to review the functions delegated to community boards. To maximise the effectiveness of the contribution of community boards to local governance the Commission is of the view that territorial authorities should consider providing the boards with a comprehensive set of delegated functions. The Commission considers that two current examples of effective community board delegations are:
- The delegations for the Otago Peninsula Community Board, as detailed in the Commission's determination of 11 October 2001, and
  - The delegations issued by the Thames-Coromandel District Council and Christchurch City Council for the community boards constituted in their districts.

## **DETERMINATION**

- 31 Under section 19R of the Act, the Commission determines that for the general election of the Council to be held on 9 October 2004 -
- (1) The Franklin District as delineated on S.O. Plan 63493 deposited with Land Information New Zealand, shall be divided into four wards;
  - (2) Those four wards shall be -
    - (a) The Waiuku-Awhitu Ward, comprising the area delineated on S.O. Plan No. 335500 deposited with Land information New Zealand:

- (b) The Northern Ward, comprising the area delineated on S.O. Plan No. 335501 deposited with Land Information New Zealand:
  - (c) The Hunua-Waikato Ward, comprising the area delineated on S.O. Plan No. 335502 deposited with Land information New Zealand:
  - (d) The Pukekohe Ward, comprising the area delineated on S.O. Plan No. 335503 deposited with Land information New Zealand
- (3) The Council shall comprise the Mayor and 12 members who shall be elected as follows -
- (a) three members shall be elected by the electors of the Waiuku-Awhitu Ward;
  - (b) three members shall be elected by the electors of the Northern Ward;
  - (c) three members shall be elected by the electors of the Hunua-Waikato Ward; and
  - (d) three members shall be elected by the electors of the Pukekohe Ward.
- (4) There shall be two communities as follows:
- (a) The Onewhero-Tuakau Community, comprising the area as delineated on S.O. Plan No. 63538 deposited with Land Information New Zealand; and
  - (b) The Waiuku-Awhitu Community, comprising the area of the Waiuku-Awhitu Ward.
- (5) The membership of the community board for each community shall be as follows:
- (a) The Onewhero-Tuakau Community Board shall comprise four elected members and one member of the Council representing the Hunua-Waikato Ward and appointed to the community board by the Council; and
  - (b) The Waiuku-Awhitu Community Board shall comprise four elected members and one member of the Council representing the Waiuku-Awhitu Ward and appointed to the community board by the Council.

32 As required by sections 19T(b) and 19W(c) of the Act, the boundaries of the above wards and communities coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes.

## **THE LOCAL GOVERNMENT COMMISSION**

Grant Kirby           (Chairman)  
Linda Constable    (Commissioner)  
Kerry Marshall      (Commissioner)

7 April 2004