

HAMILTON CITY COUNCIL

Background

- 1 The Hamilton City Council (hereafter referred to as “the Council”), in accordance with section 101H of the Local Government Act 1974 (hereafter referred to as “the Act”), carried out a review of its membership and the basis of election of its members prior to the triennial general election to be held in October 1998.
- 2 The present membership is a Mayor and 13 members elected from the following wards:

Wards	Members
Chartwell/Fairfield	3
Hamilton East/Hillcrest	3
North/Central	2
Dinsdale/Nawton	3
Melville/Lake	2

- 3 After carrying out its review the Council resolved that for the triennial elections to be held in 1998 the Council comprise a Mayor and 13 councillors elected at large. The reasons given by the Council for the decision to change from a ward system to an at large system were as follows:
 - all councillors will represent the whole City;
 - in a City-wide system, all voters will have the opportunity to vote for all 13 positions of councillors on Council and not just for the two or three councillor positions in their ward;
 - elected members will make decisions for the benefit of the City as a whole and not for just a particular portion of the City;
 - councillors are accountable to the whole electorate, not just a portion of the electorate;
 - the voice of the community will be heard, due to the extensive consultation the Council undertakes;
 - the candidates who receive the most votes will be elected. The ward system can allow a candidate with, say, 3,000 votes in one ward to be defeated, while a candidate with 1,800 votes in another ward can be elected;
 - councillors have a vote on all issues placed before the Council and therefore should have a mandate from all the citizens of the City;
 - council finances are raised by way of rates over the City as a whole and are allocated for expenditure according to the priorities within the City as a whole;
 - Hamilton’s population size and spread are sufficiently contained to lend themselves to a City-wide system; and

- while the City has recognised suburbs and communities of interest, the geographic layout lends itself to a City-wide system as there are no distinctive boundaries apart from the Waikato River.
- 4 The Council received 35 objections favouring the retention of the ward system.
- 5 After considering the objections the Council declined to amend its original proposal. The reasons for this decision were the same as those stated by the Council for its original decision listed in paragraph 3 above.

Appeals

- 6 Appeals were received from the following:
- Hamilton Organisation for Local Democracy;
 - Waikato Alliance;
 - Judy Salter; Noeline Nuttall, R C Page, N G Croft, Jane Wood, Sue Ravlich, Ray Sommerville; Peter Trimm;
 - Hamilton East Alliance; and
 - John Gibson.
- 7 Each of the appellants sought the retention of the existing ward system.

Matter for Preliminary Determination

- 8 The Commission, on receiving advice of these appeals, resolved that before making a determination of the appeals, it would meet with the Council and with the appellants if they wished to be heard. The date of the meeting was fixed for 1 December.

The Hearing

- 9 The Council was represented by the Mayor, Margaret Evans; Councillors Gallagher and Drabble; and the Chief Executive Tony Marryatt.
- 10 The appellants who attended were:
- the Waikato Alliance represented by Dave MacPherson and Jenny Collett;
 - Peter Trimm;
 - Hamilton Organisation for Local Democracy represented by Warren Brewer and Maureen Mildon; and
 - John Gibson.
- 11 Speaking on behalf of the Council the Mayor, Margaret Evans reiterated the Council's decisions for moving from a ward system to an at large system outlined in paragraph 3 above. She also stated that research

undertaken on behalf of the Council had shown a low level of understanding by the public of the ward system. She stated that demographically the ward system has failed to deliver a council which reflects the community of Hamilton in terms of age, ethnic background, and financial status, and that voters were more likely to choose a variety of candidates in terms of these characteristics in an at large election. She considered that this would produce more effective representation.

- 12 The Council also considered that public consultation through the annual plan process combined with the adoption of Hamilton's strategic plan had opened up the Council to widespread community participation, and that this helped ensure community needs at a neighbourhood level will be identified in a more effective manner than in the past. In respect of concerns that an at large election would result in prohibitive election costs for many candidates, she said that the council had resolved to ensure the preparation of an independent candidate's profile for distribution prior to the 1998 elections.
- 13 Mr Drabble added that the ward system both restricted the choice of voters in elected councillors and made it difficult for less well known candidates to be elected in wards represented by well entrenched councillors. He further considered that:
- the Council's decision to opt for an "at large" ward system accurately mirrors the desire of the Community;
 - the election of a number of good non-resident councillors negated arguments that only through the ward system is an effective councillor-resident relationship established;
 - at large elections need not lead to increased election expenditure if alternative means of publicity are used; and
 - the costs of election campaigns could be recouped through councillors' remuneration.
- 14 Dave MacPherson for the Alliance stated that the Alliance was concerned that an at large system would increase the cost of campaigning to an excessive amount. He rejected Cr Drabble's argument that the costs of campaigning be recouped by the remuneration received by councillors as this would only apply to successful candidates. He considered that an at large system would increase the likelihood of candidates standing on a political party ticket. He did not think that it is an inherently good idea for political parties to stand candidates for local government elections. He also had some concerns about the decision-making process used by the council in arriving at its at large option and considered that a decision in principle, had been made prior to the formal process and that this did not give effective opportunity for public involvement in the process.
- 15 Peter Trimm stated that he was concerned at the arguments used by the council. In particular that:

- the assertion that councillors under an at large system would represent the whole city implies that some are not at present doing so; and
- that an at large system would result in City-wide decisions being made implies that this is not currently happening.

- 16 Warren Brewer, on behalf of the Hamilton Organisation for Local Democracy (HOLD) spoke to HOLD's written appeal. He added that the Council had given more weight to the views of organisations such as the Chamber of Commerce than the views of ordinary citizens. HOLD considered that councillors are in an ideal position to work with community groups in their wards, and certainly in a better position to do so than councillors elected at large. He said that in 1995 the Local Government Commission had accepted the Council's arguments that management boards established by the Council to run some of those activities were a justification for reducing the number of councillors. HOLD accepted that argument as it related to workloads. However, the Council is now in the process of replacing management boards with a task force of councillors.
- 17 In the course of questions from the Commission, Mr Brewer stated that he thought the present ward boundaries were satisfactory and reflected the composition of the city. There were a number of distinct areas in the city such as Frankton and Chartwell and a clear difference between the eastern and western parts of the city.
- 18 John Gibson stated that the Council places great emphasis on consultation and participation, and that wards provide a better means of doing this than an at large system. He considered that wards enabled members to be closer to the community and provide more opportunity for electors to get to know their councillors. This would enable councillors to be more accountable to their constituents. He was also concerned that there would be an increase in the cost of contesting elections if an at large system was introduced. He considered that the existing wards represented communities of interest and were clearly divided by major roads, railways, and lakes.
- 19 In the Council's right of reply the Mayor stated that she believed the Council had followed the proper process during its review. She disputed that the ward system had a connection with Agenda 21. She also believed that there were alternative means for the Council to develop relationships with neighbourhoods and that given this, a ward system is no longer required.
- 20 Mr Drabble stated that the Council agreed that the cost of campaigning was an issue, and that the Council supported limitations being placed through legislation on the amount candidates could spend in their election campaign. He also stated that if the ward system was maintained, there

would need to be some adjustment to boundaries because of changes in population.

Matters for Determination

21 The statutory provisions in respect of this appeal 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 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."*

22 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 two 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 the Department of Statistics 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

- 23 The Commission considers 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,

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.

- 24 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 of 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 remain the predominant factor, but different weightings or even no weighting 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. The final decision must be that which the Commission considers will, after having regard to the various factors set out in the Act, provide fair representation for the electors of any ward.

- 25 Before it could determine that the City should be elected on an at large basis, the Commission would need to be satisfied that the existing system had failed to provide effective representation of the various communities of interest, or that more effective representation would be achieved by the change. The Commission was not satisfied that there were deficiencies in the existing system that would be rectified by changing from a ward system to an at large system. It was also not satisfied that Hamilton City was homogeneous to the extent that separate and distinct communities of interest which require wards for effective representation do not exist. The Commission has therefore decided that for the purposes of the 1998 election, Hamilton City should be divided into wards.

- 26 Having determined that Hamilton City should continue to be divided into wards, the Commission then had to consider what wards and boundaries the most appropriate.

- 27 Using geographic and artificial features - the Waikato River, railways, the central business and industrial areas, and large open spaces - Hamilton City can be easily divided into 5 distinct geographic areas. These areas approximate almost exactly to the existing 5 wards. The Commission considered these broadly to equate to distinct sets of communities of interest. The Commission then considered whether these areas required separate representation and whether this would result in fair representation.
- 28 Inherent in the concept of effective representation for communities of interest is the ability for those communities to receive fair representation. In an almost entirely urban district such as Hamilton City, this would normally be determined solely on the basis of population.
- 29 The following table shows the statistical entitlement of the current wards on the basis of their population using a membership of 13.

Table 1

Current Wards	Population	%	Members
North-Central	17,608	16.24	2.11
Dinsdale/Nawton	22,498	20.75	2.70
Chartwell-Fairfield	25,608	23.62	3.07
Melville-Lake	18,637	17.19	2.23
Hamilton East-Hillcrest	24,077	22.21	2.89
Total	108,428	100.00	13

- 30 Although it is difficult to achieve exact or approximate equality of members between wards, the Commission observed in the above table what it considered to be moderate over-representation of the Dinsdale-Nawton Ward and moderate over-representation of the Melville-Lake Ward. It then considered whether any other configuration of the City would result in fairer representation between wards. The Commission considered several options but considered that this could best be achieved by:
- the North-Central and Dinsdale-Nawton Wards being grouped in a single ward;
 - the Melville-Lake and Hamilton East-Hillcrest Wards being grouped in a single ward; and
 - the Chartwell-Fairfield Ward remaining as a separate ward.

On a 13 member Council the statistical and actual entitlement of these wards would be as follows:

Table 2

	Population	%	Statistical Entitlement to Members	Actual Members
North-Central } Dinsdale-Nawton}	40,106	36.9	4.81	5
Chartwell- Fairfield	25,608	23.62	3.07	3
Melville-Lake } Hamilton East} Hillcrest	42,714	39.39	5.12	5
Totals	108,428	100.00	13.00	13

- 31 The Commission therefore determines that Hamilton City shall be divided into 3 wards as identified in Table 2 above. These wards shall be called, respectively, the West Ward, the East Ward, and the South Ward.
- 32 To the extent that Hamilton City will continue to be divided into wards, the Commission upholds each of the appeals to which this determination relates.

Determination

- 33 Pursuant to section 101K of the Act, the Commission hereby determines that for the triennial election in 1998:
- (1) Hamilton City as delineated on S.O. Plan No. 57982 deposited with the Chief Surveyor of the Auckland Land District, shall be divided into 3 wards;
 - (2) those 3 wards shall be:
 - (a) the West Ward, comprising the area delineated on S.O. Plan No. 60886 deposited with the Chief Surveyor of the South Auckland Land District;

- (b) the East Ward comprising the area delineated on S.O. Plan No. 57983 deposited with the Chief Surveyor of the South Auckland Land District;
 - (c) the South Ward comprising the area delineated on S.O. Plan No. 60887 deposited with the Chief Surveyor of the South Auckland Land District;
- (3) The Council shall comprise a Mayor and 13 members of whom:
- (a) three members shall be elected by the electors of the East Ward;
 - (b) five members shall be elected by the electors of the West Ward; and
 - (c) five members shall be elected by the electors of the South Ward.

34 As required by section 101L(2) of the Act the boundaries of the above ward coincide with the boundaries of current statistical meshblocks determined by Statistics New Zealand and used for Parliamentary electoral purposes.

The Local Government Commission

Ian Lawrence (Chairman)
Barbara Durbin (Commissioner)
Robin Wilkins (Commissioner)

27 March 1998