

## HASTINGS DISTRICT COUNCIL

### Background

- 1 The Hastings District 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 the election of its members prior to the triennial general election to be held in October 1998.
- 2 The present membership is a Mayor, and 14 members elected from the following 9 wards:

<b>Wards</b>	<b>Members</b>
Tutira	1
Kaweka	1
Poukawa	1
Maraekakaho	1
Heretaunga	1
Clive	1
Flaxmere	2
Hastings	4
Havelock North	2

- 3 After carrying out its review the Council resolved to retain the existing membership and basis of election, except for minor alterations to the boundaries of some wards.
- 4 The Council received objections to its proposal, as follows:
  - (a) P Longstaffe; and
  - (b) C H Ashton and 53 others, who objected to the transfer of the Endsleigh Road area from the Poukawa Ward to the Havelock North Ward; and
  - (c) P M MacCallum and 39 others, who objected to the transfer of the Endsleigh Road area from the Poukawa Ward to the Havelock North Ward, and also sought the transfer from the Havelock North Ward to the Poukawa Ward of certain areas between Durham Drive and Endsleigh Road with a rating classification of Residential Lifestyle A.
- 5 After considering the objections, the Council decided to amend its original proposal by retaining the Endsleigh Road area in the Poukawa Ward and transferring to that ward the western portion of the area between Durham Drive and Endsleigh Road (the Lanes Road and Middle Road areas) on the grounds that the community of interest of those areas lies predominantly with the Poukawa Ward.

- 6 The Council decided that the eastern portion of the area between Durham Drive and Endsleigh Road (the Kopanga Road and Te Mata Peak Road areas) should remain in the Havelock North Ward on the basis that its community of interest lies predominantly with Havelock North.

### **Appeal**

- 7 An appeal against the Council's decision was lodged by:

A Holder  
Mark Holder  
J R MacCallum  
H P & C Lattey  
M & R Lusk  
Mike & Julie Flemming

- 8 These were among the objectors grouped under "P M MacCallum and 39 others" referred to above. The appellants sought the transfer of meshblocks 1466900 and 1466701 from the Havelock North Ward to the Poukawa Ward.

- 9 The grounds of the appeal may be summarised as follows:

- these areas are similar in nature to the Endsleigh Road area, which the Council had decided to retain in the Poukawa Ward, and the Lanes Road and Middle Road areas which the Council had decided to transfer from the Havelock North ward to the Poukawa Ward;
- the area is different in nature to Havelock North because of land use, the lack of urban facilities, and the issues faced by the residents and;
- "community of interest" should be defined as "commonality of interest" and this area had a commonality of interest with other rural areas rather than Havelock North.

### **Matter for Preliminary Determination**

- 10 The Commission, on receiving advice of the appeal, resolved that before making a determination of this appeal, a committee of the Commission would meet with the Council and with the appellant if they wished to heard. The date of the meeting was fixed for 27 November 1997.
- 11 The Commission appointed a committee ("the Committee") comprising Commissioners Barbara Durbin and Robin Wilkins to hear, consider and determine the appeal, and appointed Commissioner Durbin as chairman of the committee

## The Hearing

- 12 The Committee met with representatives of the Council and of the appellants. Appearing for the Council were the Mayor of Hastings District, Jeremy Dwyer and the Chief Executive, Eric Millar. Appearing for the appellants was Peter MacCallum.
- 13 Mr MacCallum spoke to the submissions outlined in paragraph 9 above. He emphasised the rural nature of the area and its commonality with areas to the immediate west which had already been included in the Poukawa Ward.
- 14 The Council argued that the area subject to the appeal was a “lifestyle” area rather than a rural area and did not have a significant community of interest with the farming communities of the Poukawa Ward. The Council described the area as semi-urban and considered that the issues affecting the area would not be significantly different from those affecting the remainder of the Havelock North Ward.

## Matters for Determination

- 15 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."*
- 16 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 Committee**

17 The Committee considers when deciding;-

- (a) whether the election of the members of the 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 those 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.

18 The Committee 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 Committee must have regard primarily to population, but if this factor alone does not, in the opinion of the Committee, 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 Committee 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 Committee does not consider that any particular formula must be applied, and consequently, any mathematical calculation should be seen only as indicative as 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 Committee considers will, after having regard to the various factors set out in the Act, provide fair representation for the electors of any ward.

19 The Council, and the Committee were, firstly, required to consider how best to provide for effective representation of communities of interest within the district. The Council decided that the continuation of a ward system is

necessary to provide effective representation for the various communities of interest in the Hastings District. The Committee agrees. The next question to be considered was the number, names and boundaries of wards. The Committee considers that the number and names of the wards are appropriate, as in broad terms are the boundaries of those wards.

- 20 The particular question in respect of this appeal is what constitutes the appropriate communities of interest for the Havelock North and Poukawa wards, and therefore the appropriate boundary between those wards.
- 21 As noted above, the Council argued that the area subject to the appeal has a community of interest with Havelock North. The Committee agreed that this area would have a community of interest with Havelock North. It considered, however, that this community of interest would be no greater than that shared by other areas immediately adjacent to the Havelock North urban area. Havelock North would undoubtedly act as a social, cultural and economic focus for all adjacent areas.
- 22 The Committee observed that as a consequence of the Council's decision to allow some objections and transfer certain areas from the Havelock North Ward to the Poukawa Ward, the area subject to this appeal was one of the few significant areas of rural land remaining in the Havelock North Ward. It appeared to the Committee to have been treated differently from other areas of a similar character. Although some rural land to the north of Havelock North would remain in the ward, a large proportion of the proposed ward boundary is drawn tightly around the area zoned for urban purposes.
- 23 The Committee accepted Mr MacCallum's argument that, in this particular instance, an important element of "community of interest" is "commonality of interest". The Committee came to the view that the area subject to the appeal had a "commonality of interest" with the other areas adjacent to Havelock North which had been included in the Poukawa Ward. On this basis the Committee upheld the appeal.
- 24 The Committee noted that the Council had arranged with Statistics New Zealand for a small entirely residential portion of the area subject to the appeal to be created as a separate meshblock. It had done the same for an entirely residential area in the Breadalbane Road area. On the basis of community of interest the Committee agreed that these two areas (meshblocks 1465505 and 1466708) should remain in the Havelock North Ward.
- 25 The final question to be determined by the Committee is the appropriate number of members to be elected from each ward. The Committee considered the factors considered by the Council in determining this matter and the number of members it decided should be elected from each ward. The Committee determined that this would result in effective and fair representation for each ward and therefore decided to confirm the Council's decision.

## Determination

26 Pursuant to section 101K of the Act, the Committee hereby determines that for the triennial general election in 1998:

- (1) the Hastings District, as delineated on SO Plan No 9822 shall be divided into nine wards:
- (2) those nine wards shall be:
  - (a) the Tutira Ward, comprising the area delineated on SO Plan No 10298 deposited with the Chief Surveyor of the Hawke's Bay Land District:
  - (b) the Kaweka Ward, comprising the area delineated on SO Plan No 10299 deposited with the Chief Surveyor of the Hawke's Bay Land District:
  - (c) the Poukawa Ward, comprising the area delineated on SO Plan No 10306 deposited with the Chief Surveyor of the Hawke's Bay Land District:
  - (d) the Maraekakaho Ward, comprising the area delineated on SO Plan No 10305 deposited with the Chief Surveyor of the Hawke's Bay Land District.
  - (e) the Heretaunga Ward, comprising the area delineated on SO Plan No 10300 deposited with the Chief Surveyor of the Hawke's Bay Land District:
  - (f) the Clive Ward, comprising the area delineated on SO Plan No 10301 deposited with the Chief Surveyor of the Hawke's Bay Land District:
  - (g) the Flaxmere Ward, comprising the area delineated on SO Plan No 10302 deposited with the Chief Surveyor of the Hawke's Bay Land District:
  - (h) the Hastings Ward, comprising the area delineated on SO Plan No 10303 deposited with the Chief Surveyor of the Hawke's Bay Land District:
  - (i) the Havelock North Ward, comprising the area delineated on SO Plan No 10304 deposited with the Chief Surveyor of the Hawke's Bay Land District:
- (3) The Council shall comprise 14 members of whom:
  - (a) one member shall be elected by the electors of the Tutira Ward;
  - (b) one member shall be elected by the electors of the Kaweka Ward;
  - (c) one member shall be elected by the electors of the Poukawa Ward;
  - (d) one member shall be elected by the electors of the Maraekakaho Ward;

- (e) one member shall be elected by the electors of the Heretaunga Ward;
- (f) one member shall be elected by the electors of the Clive Ward;
- (g) two members shall be elected by the electors of the Flaxmere Ward;
- (h) four members shall be elected by the electors of the Hastings Ward;
- (i) two members shall be elected by the electors of the Havelock North Ward.

27 As required by section 101L of the Act, the boundaries of the above wards coincide with the boundaries of current statistical meshblock areas determined by the Statistics New Zealand and used for Parliamentary electoral purposes.

### **The Committee of the Commission**

Barbara Durbin (Chairman)  
Robin Wilkins (Member)

27 March 1998