



LOCAL GOVERNMENT COMMISSION

Determination

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

BACKGROUND

- 1 The Hutt 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 Hutt City Council elected at the 1998 general election comprises 12 members and the Mayor. The 12 members were elected as follows:

Western Ward	2 members
Harbour Ward	2 members
Northern Ward	2 members
Central Ward	2 members
Eastern Ward	2 members
Wainuiomata Ward	2 members.
- 3 Following its review, the Council proposed a ten member Council elected at large, plus the Mayor.
- 4 The Council received 509 objections. A large number of the objections did not relate to the Council’s review of membership and basis of election, but rather to its proposal concerning community representation by community boards, which was publicly notified at the same time.

-

Of those objections relating to the Council's proposal for a 10 member Council elected at large, the majority sought the retention of the current ward system and representation.

- 5 Following consideration of the objections, the Council proposed a system of wards which would elect a total of 12 members as follows:

Western Ward	4 members
Harbour Ward	2 members
Eastern Ward	4 members
Wainuiomata Ward	2 members

This proposal involved the merger of the existing Northern and Eastern Wards to create the proposed Eastern Ward, and the merger of the existing Western and Central Wards to create the proposed Western Ward.

- 6 The Council received 162 counter-objections to its final proposal. Of these, 137 contained matters relating to the Council's proposed membership and basis of election. The other counter-objections raised issues solely relating to the Council's community board proposals. Matters relating to the question of the constitution of communities and community board membership are not matters which can be dealt with in relation to any appeal made under section 101J of the Act.

Preliminary Matter for Determination

- 7 The Commission, on receiving advice of the counter-objections, resolved that before making a determination of the electoral arrangements of the Council, it would meet with the Council, and the counter-objectors if they wished to be heard. The Commission resolved to meet the Council and the counter-objectors in Lower Hutt on 9 February 2001.

The Hearing

- 8 The Council was represented by the Mayor (John Terris) and Councillor Brosnahan. The following counter-objectors appeared before the Commission:
- Scott Dalziell
 - I D Moller
 - Belmont Ratepayers Improvement Association
 - Community Boards and Wards Committees
 - Warwick Johnston
 - K & B Malcolm

- Hutt South Labour Electorate Committee
- Citizens Watch
- M Grigg
- Positive Focus
- Athol Greentree
- J Englebretsen
- Normandale Residents Association
- Geoffrey Mann.

The Council: The Mayor outlined the process followed by the Council in its review and commented on matters raised in the counter-objections. His comments and replies to questions may be summarised as follows:

- the Council began its review process 18 months ago - there have been three periods of public consultation and a number of workshops;
- the Council's proposal provides for an average of 1 elected member for every 8000 residents;
- the Council pondered at length the issue of achieving effective representation of communities of interest and considered geographic and historical factors;
- representation for specific communities of interest needs to be balanced against the most significant community of interest, which is the City as a whole;
- there is the developing emergence of the City as a single entity but the public is not yet ready for elections at large;
- in 1998 the Council initially proposed elections at large but reverted to wards after consultation;
- the Council is still seeking to move to a smaller Council with less wards, and the Council's current proposal is a step in that direction;
- in 1999 Wyn Hoadley was commissioned to undertake consultation, and this resulted in a recommendation for a ten member Council elected at large;
- the Council initially proposed elections at large and received more than 500 submissions, most of which sought the retention of wards;
- wards are a relatively new concept in the City;
- the extent of public response is limited when the population of the City is taken into account;
- the Council felt it necessary to consider the costs involved in any changes;
- the Wainuiomata and Harbour Wards represent distinct communities of interest, but there is a stronger sense of a single identity on the Valley floor because of previous local government history;
- the Council's proposal strikes a reasonable balance between the interests of the City as a whole and community aspirations;
- there is a strong view that the Alicetown area has a feeling of linkage to the City area rather than to Petone; and
- wards lead to higher levels of parochialism.

Scott Dalziell: Cr Dalziell addressed his counter-objection. His comments may be summarised as follows:

- the Council's submission, as presented by the Mayor, was at no stage circulated to the Council;
- there has been no consultation regarding the current proposal;
- there has been no attempt to deal with the disparate nature of the Western Ward other than through lumping it together with the Central Ward;
- the Council operates in the vast majority of its decision-making in the interests of the City as a whole;
- the concept of elections at large, as proposed by Wyn Hoadley, was based on a strong underpinning of community boards; and
- Cr Dalziell acknowledged the disparity in representation of the Western Ward in terms of population when compared with the population of the other wards.

I D Moller: I D Moller addressed his counter-objection. His comments may be summarised as follows:

- the Stokes Valley area would become "a very small fish in the pond of the Eastern Ward";
- loyalty to the local area develops first, before loyalty to the City as a whole; and
- the reduction from six wards to four wards will lead to one less community board.

Belmont Ratepayers Improvement Association: Arthur Drake addressed the Association's counter-objection:

- the Association seeks the retention of the current electoral arrangements;
- the Western Hills have no swimming pool or library and rely on the central City for services; and
- the Council's proposal would provide less effective representation as it would be likely that the Councillors for the proposed Western Ward would be residents of the central area.

Community Boards and Wards Committees: Mike Rumble spoke to a submission. Its contents, his comments and replies to questions may be summarised as follows:

- the process followed by the Council constantly linked two separate and distinct reviews - the review of membership and basis of election of the Council, and the review of community representation;
- the submissions show that most electors who wanted to respond to one issue ended up confused and commented on both;

- it has been an unfortunate practice of certain members of the Council to resort to inappropriate conduct when dealing with submitters at hearings, a practice seen as undermining the principle of a fair hearing;
- the Council provided no evidence that the existing system of six wards is not working or should be discounted;
- although the Council has reverted to a ward system, it is not the current ward system, despite submissions favouring the retention of the status quo by a large margin;
- the Council's proposal is a reversion to pre-merger days - it includes two giant wards that are not based on logical/physical communities of interest, and which have more representatives;
- communities of interest were not defined at any stage in the Council's process;
- the Mayor and Councillors supporting changes used the cost issue, rather than the need for balanced democratic representation, as the primary factor;
- poor communication and major changes of direction contributed to confusion and uncertainty; and
- the united preference of the Community Boards and Ward Committees is for the retention of the status quo.

K and B Malcolm: K and B Malcolm addressed their counter-objection:

- they are totally confused by the Council's proposal;
- they object to elections at large and seek the retention of the existing ward structure; and
- no valid reasons have been put forward for major change.

Positive Focus: Peter Glensor addressed the counter-objection of Positive Focus. His comments may be summarised as follows:

- Positive Focus is the longest standing political group in the City;
- it achieved the election of 7 members to the Council in the current triennium;
- when local structures are in place elections at large would be appropriate;
- the Council's proposal is the worst of all scenarios because of the loss of community representation; and
- with two of the proposed wards each having four Councillors there will be pressure on those Councillors to vote as a block on some issues.

Warwick Johnston: Warwick Johnston addressed his counter-objection. His comments may be summarised as follows:

- there was a certain amount of inaccuracy and assumption in the Council's submissions to the Commission;
- population was the only factor used in determining the two new wards, and if other factors were used the proposals would not work;
- the proposals effectively divide the City into two; and

- the Council's consultation was deficient - there should have been more public meetings organised by the Council and more discussion in the newspaper.

Hutt South Labour Electorate Committee: Steven Lulich addressed the Committee's counter-objection. His comments may be summarised as follows:

- the Committee seeks the retention of the existing ward structure;
- there was insufficient public consultation on the Council's final proposal for four wards;
- the existing Western Ward has little Council infrastructure and is largely made up of young families with high mortgages;
- the existing Central Ward has older residents and most of the Council's infrastructure; and
- it is harder for individual candidates to campaign in larger wards.

Citizens Watch: Max Shierlaw addressed the counter-objections of Citizens Watch. His comments may be summarised as follows:

- the Council has provided no evidence of a need for change;
- the Council's questioning of submissions at its hearing was a disgrace;
- a community of interest has shopping centres, residences, sports clubs and schools within it;
- if the Council was serious about integrating the City, it would need to consider merging the Wainuiomata and Harbour Wards, but the Council knows that such a merger would not provide for effective representation; and
- the Council's proposal is a prelude to moving to elections at large.

Julie Englebretsen: Julie Englebretsen addressed her counter-objection. Her comments may be summarised as follows:

- the changes proposed by the Council have been confusing;
- the extensive consultation undertaken by Wyn Hoadley has been disregarded;
- the merger of the Northern and Eastern Wards is opposed, as all Councillors could come from the southern part of the proposed ward; and
- dollars have come before democracy in the Council's decision.

M Grigg: M Grigg addressed his counter-objection. His comments may be summarised as follows:

- Wyn Hoadley recommended that the City adopt elections at large, supported by strong, equitable and fair community representation;
- the majority team on the Council took a pre-determined approach to the review;
- elections at large would not achieve fairness in representation;
- a ward system achieves diversity in representation;

- elections at large would not enhance Maori representation on the Council;
- the Council proposed elections at large in 1998 - its proposal did not find favour then, and does not do so now;
- there has been no consultation on the amended proposal, but it is clear that the amended proposal enjoys as little support as the Council's proposal for elections at large;
- the proposed Eastern and Northern Wards are "superwards" which are a watered down version of the city-wide system based on the old Council boundaries, and they do nothing to support the integration of the new City; and
- the petition of 1100 residents demonstrates the concern that the amended proposal does not provide for fair and equitable representation across the City.

Athol Greentree: Athol Greentree spoke to a submission. Its contents and his comments may be summarised as follows:

- the submission process to Council was not a pleasant experience;
- the majority political grouping on Council did not have any intention of genuinely considering various options;
- since amalgamation a very real power imbalance has developed between the wealthy and poor areas of the City;
- there has been overwhelming support for the status quo;
- if the Commission were inclined to look outside the square, eight clearly distinguishable communities in the City can be identified;
- a ward structure based on those eight communities would be identifiable by those living within and outside the communities;
- in recognition of the eight communities there could be eight wards electing a total of 12 members; and
- four of the eight wards - Wainuiomata, Western Hills, Hutt Central and Petone - would elect two members each, and the other four wards - Eastbourne, Stokes Valley, Naenae and Taita - would elect one member each.

Normandale Residents' Association: Howard Philips spoke to a submission. Its contents and his comments may be summarised as follows:

- predetermination of this issue has led to bias being exhibited within the decision making of the Council;
- the hearing of submissions by the Council lacked fairness and descended into verbal abuse of those submitters who did not support the view of the political elite;
- the Council's own surveys show a majority of support for the retention of the existing ward system;
- residents wish to have local Councillors who understand and reflect the issues that are important to their areas; and

- residents view the existing ward system as delivering the representation they desire.

Geoffrey Mann: Geoffrey Mann addressed his counter-objection. His comments may be summarised as follows:

- the existing structure of ward committees and community boards in the City works well;
- the Northern and Eastern areas of the City have lost the habit of communicating with their Council;
- the Council's initial proposal would have broken down the sense of community in the City - the revised proposal is even more astonishing;
- ward committees are strong proponents of the existing ward arrangements;
- and
- people in the City are not ready for elections at large.

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

- it is not possible for the Council to come up with an answer that pleases everyone;
- the Council considers that its proposal for four wards will provide effective representation;
- the Council has correctly followed the requirements of the Act;
- the wards reflect communities of interest - the Wainuiomata Ward is a distinct geographic area; the Harbour Ward includes Eastbourne, which is isolated from the rest of the City; the proposed combination of the existing Western and Central Wards reflects the common usage by their residents of shopping, educational and recreational facilities in the central area; the proposed combination of the existing Northern and Eastern Wards takes into account their linkage by transport corridors;
- at this stage the residents of the City are not ready for elections at large;
- under elections at large Councillors have to know what is going on across the whole City; and
- the Council's proposal balances effective representation for the City as a whole with effective representation of communities.

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 District.
- 14 The Council's initial resolution proposed that that the Council be elected by the electors of the City as a whole. A large number of objections were received against that proposal, and after consideration of the objections, the Council reverted to a ward system.
- 15 The Hutt City is a geographically varied area, with the coastal communities extending from Petone to Eastbourne, the geographically distinct area of Wainuiomata, and the relatively intensively populated valley floor with the hillside suburbs to the West and East. Because of this geography and the history of development of these areas, the Commission is of the view that, at this time, a ward system is necessary to provide for the effective representation of communities of interest in 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 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.
- 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 4 wards. The existing Harbour and Wainuiomata Wards would remain, while two new wards - Western and Eastern - would be created from the other four existing wards.
- 20 The Council is of the view that the proposed wards will provide for effective representation of communities of interest in the City. This view was disputed by counter-objectors, almost all of whom wished to retain the current ward arrangements.
- 21 The Commission has considered whether each of the proposed wards would provide effective representation for communities of interest. It is satisfied that the retention of the Harbour and Wainuiomata Wards is appropriate to provide for the effective representation of the communities of interest in those wards.
- 22 From the evidence provided at the hearing, and taking into account the near unanimous opposition of counter-objectors to the Council's ward proposals, the Commission is not satisfied that the proposal Western and Eastern Wards would provide effective representation of communities of interest to the degree that the current ward system does. With respect to the proposed Western Ward, the Commission is concerned that the Western Hills, because of their topography, relative difficulty of access and lack of Council provided facilities, require separate representation on the Council. The Commission is of the view that the proposed Eastern Ward would not provide effective representation for the distinct communities of interest that would exist within it.
- 23 One counter-objector put forward to the Commission a proposal for an eight ward system based on what he considered to be eight distinct communities of interest. The Commission formed the view that it would not be necessary for each community of interest identified by the counter-objector to have separate representation, and

that overall, the wards proposed by the counter-objector would not enhance effective representation over the ward system currently in place.

- 24 Having considered the evidence presented to it at the hearing, and other material gathered by it, the Commission considers that the wards proposed by the Council do not adequately equate to communities of interest requiring separate representation on the Council. The Commission has determined that the existing six wards shall remain in place for the 2001 election of the Council.

Number of Members

- 25 Having decided that there will be six wards, the Commission is then required to determine what would be fair representation for the electors of the various wards of the City.
- 26 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.
- 27 The following table 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 10, 11 or 13. The population figures are 2000 estimated resident population figures, as supplied to the Commission by Statistics New Zealand.

Ward	Population	%	10 members	11 members	12 members	13 members
Western	12150	12.43	1.24	1.37	1.49	1.62
Harbour	17650	18.06	1.81	1.99	2.17	2.35
Northern	14800	15.14	1.51	1.67	1.82	1.97
Central	18900	19.33	1.93	2.13	2.32	2.51
Eastern	16850	17.24	1.72	1.90	2.07	2.24
Wainuiomata	17400	17.80	1.78	1.96	2.14	2.31

- 28 The Table shows that the fairest representation for the electors of each ward is achieved with a Council of 11 members. Under this scenario, all wards except the Western Ward would retain 2 members, while the representation of the Western Ward would reduce to one member.
- 29 In its 1998 determination, the Commission acknowledged the problem of achieving fair representation for the Western Ward. At that time it decided to retain two members for that ward on the basis that it would likely experience higher population growth than other wards of the City due to the significant green field residential development that was taking place in that ward. However, a comparison of the

2000 population estimates with the 1996 Census population figures shows that the Western Ward's population as a percentage of the population of the City has as a whole remained relatively static - the ward contained 12.14% of the City's population at the time of the 1996 Census and is estimated to have contained 12.43% of the City's population as at 30 June 2000.

- 30 Given that the population of the Western Ward has remained static relative to the City as a whole, the Commission considers that the over-representation of the ward achieved through the provision of two members should not continue. It has decided that the Western Ward will be represented by one member.
- 31 Having considered all aspects of the matter of representation, the Commission has concluded that the membership of the Council should total 11 members and the Mayor, taking into account the population of the wards of the City.

GENERAL COMMENT

- 32 The Council integrated its review of community representation by way of community boards with its review of the membership and basis of election of the Council. Evidence provided to the Commission showed that the Council's integration of the two issues caused confusion in the minds of submitters and those with an interest in the Council's electoral arrangements.
- 33 While it was appropriate for the Council to review community representation at the same time as the review of membership and basis of election, the Commission considers that public understanding of the two reviews would have been enhanced if they were dealt with by the Council separately, and publicly notified separately.
- 34 The current legislative requirements relating to the review of membership and basis of election of the Council and the review of community representation are quite distinct. Also the processes are not inter-related, in so far as the ward or membership arrangements of the Council should have no bearing on the level of community representation, or vice versa.

DETERMINATION

- 35 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) Lower Hutt City, as delineated on S.O. Plan 35979 deposited with the Chief Surveyor of the Wellington Land District, shall be divided into 6 wards;

- (2) Those 6 wards shall be -
- (a) The Western Ward, comprising the area delineated on S.O. Plan No. 37406 deposited with the Chief Surveyor of the Wellington Land District:
 - (b) The Harbour Ward, comprising the area delineated on S.O. Plan No. 37408 deposited with the Chief Surveyor of the Wellington Land District:
 - (c) The Northern Ward, comprising the area delineated on S.O. Plan No. 37405 deposited with the Chief Surveyor of the Wellington Land District:
 - (d) The Central Ward, comprising the area delineated on S.O. Plan No. 37409 deposited with the Chief Surveyor of the Wellington Land District:
 - (e) The Eastern Ward, comprising the area delineated on S.O. Plan No. 37407 deposited with the Chief Surveyor of the Wellington Land District:
 - (f) The Wainuiomata Ward, comprising the area delineated on S.O. Plan No. 35984 deposited with the Chief Surveyor of the Wellington Land District;
- (3) The Council shall comprise the Mayor and 11 members who shall be elected as follows -
- (a) one member shall be elected by the electors of the Western Ward;
 - (b) two members shall be elected by the electors of the Harbour Ward;
 - (c) two members shall be elected by the electors of the Northern Ward;
 - (d) two members shall be elected by the electors of the Central Ward;
 - (e) two members shall be elected by the electors of the Eastern Ward;
 - and
 - (f) two members shall be elected by the electors of the Wainuiomata Ward.

36 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