

KAIPARA DISTRICT COUNCIL

Background

- 1 The Kaipara District 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 election of its members prior to the local authority elections to be held in October 1998, and resolved that it would make no change. Its present membership and basis of election was fixed in 1989 when the district was constituted. The membership is 10 in addition to the Mayor, elected as follows:

Wards	Members
Dargaville	3
Otamatea	3
Pouto	2
Ruawai	2

- 2 Two appeals were received against the Council’s proposals.

Council’s Consideration

- 3 The Council, at a meeting in July, considered and adopted an officer’s report which recommended that there be no change. This report noted that there were growing population disparities in the various wards, but that these were insufficient at this time to warrant any change to membership or ward boundaries.
- 4 The Council received two objections to its proposals, one from Mr and Mrs Paxton, and Mr A Van Biene; and the other from Mr T D Morris. The objections were to the ward structure, and requested that the boundaries of the wards be altered so that a separate ward for the whole of the Dargaville township be constituted.
- 5 The Council considered the objections and declined to accept them. The reasons for this were:
 - (a) That the present structure of the district is appropriate for the current circumstances of the district; and
 - (b) That a thorough review will be conducted prior to the next election to be conducted in 2001.
- 6 Both of the objectors then appealed against the Council’s decision.

Subject of Appeals

- 7 As with their objections, the matters in the appeals were the same, i.e., that a separate ward should be established for Dargaville town.

Preliminary Matter for Determination

- 8 The Commission received the appeals and resolved to meet the Council and appellants in Dargaville on Tuesday 22 February.

The Hearing

- 9 The Council was represented by Mr McKerchar, the Chief Executive and Mr C Allington, the Manager Corporate Services. Mr Peter Brown, the Mayor was present but did not speak.
- 10 Mr Paxton appeared to present his appeal.
- 11 Mr McKerchar read a new submission, which commenced with a summary of the Council's consideration of its membership and the objections. The other matters raised in this submission may be summarised as follows:
- The present structure gives a strong district, which does not suffer from parochialism;
 - While Dargaville is an urban settlement, it depends for its existence upon the rural hinterland, and is therefore advantaged by having mixed urban and rural representation;
 - Electors of Dargaville have the opportunity under the present system to vote for 5 Councillors, and this greatly increases the effectiveness of representation for the Dargaville community of interest;
 - A separate Dargaville Ward would only be able to vote for 2 councillors;
 - Dargaville has benefited in many ways since the district was constituted by Council decisions, which shows that the citizens of Dargaville have not been disadvantaged;
 - Although there is an appearance of high rural membership of the Council, in fact 7 of the present 10 Councillors either live in urban areas or on the fringes of urban areas, and the Mayor is a long time resident of Dargaville;
 - A restructure of wards to accommodate a separate Dargaville Ward would be a complex operation which the Council did not consider was warranted at this stage; and
 - There was little evidence of either public support for a change or of public dissatisfaction with the present system.

- 12 The responses of Mr McKerchar and Mr Allington to questions may be summarised as follows:
- Some consideration was given at officer level to the use of rateable values and areas as factors in the determination of fair representation, but these were not of much assistance;
 - While there is a distinct Dargaville community of interest, it is not considered the division of the town into separate wards meant there was any problem with effective representation of that community of interest;
 - The Council considered its functions and felt that it needed 10 members as at present to be able to operate effectively;
 - The Council has no committees, and the major separation between regulatory and service delivery functions was at the management level and was achieved by a higher level of delegations to staff;
 - The Council is concerned about the general future of local government in Northland, because of doubt over the future of roading, and the need to deal with an influx of Aucklanders into the district; and
 - The Council is very active in promoting community initiatives in Dargaville and elsewhere.
- 13 Mr Paxton made an oral submission. His comments and responses to questions may be summarised as follows:
- His appeal is based on a feeling of identity for Dargaville and a belief that dividing the township down the middle of the street immediately outside council headquarters divides the town;
 - Considers Dargaville is unique now in being divided in this way;
 - He believed it is difficult to promote Dargaville while it is divided;
 - People to whom he talks support the idea of a single Dargaville ward;
 - If a ward was established, he believed it should cover an area similar to the boundaries to the old Dargaville Borough;
 - He does not consider the constitution of a Dargaville ward would in any way lead to urban domination; and
 - There was not much awareness in the entire district of the triennial review process.
- 14 The comments Mr McKerchar made in reply on behalf of the Council may be summarised as follows:
- There is some rural land within the boundaries of the old Dargaville Borough;
 - Dargaville has an identity, both current and historic, and this is not endangered through the vision of the township; and

- the local newspapers reported the Council’s review process but there was not much interest from the community in general.

15 At the conclusion of the Council’s response, the Chairman said that the Commission reserved its decision and declared the meeting closed.

Matters for Determination

16 The legislation relating to the determination of appeals and counter, objections, is contained in sections 101K and 101L(2) and (3) of the Act. Section 101K(1) provides as follows:

- “(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.”*

17 Section 101L(2) and (3) provides as follows:

- “(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

- 18 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,

that the only criterion to be met within the terms of section 101L(2) of the Act is the provision of effective representation for the various communities of interest within the district. This can be achieved by any ward encompassing one or more communities of interest.

- 19 The Commission further considers that, when deciding 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.

- 20 Obviously, given the content of the appeals, there is an acceptance within the district that it is appropriate to divide the district into wards for electoral purposes. The Commission agrees that there are a number of different communities of interest which will be provided with more effective representation under a ward system, and therefore determines that the district shall be so divided.

- 21 The subject matter of the appeals was the division of Dargaville township into wards which also incorporate extensive areas of the rural hinterland. The appellants maintained that the residents of Dargaville would be more effectively represented if they were contained within a ward which was more tightly circumscribed so as to exclude most if not all of the

surrounding rural areas. The principle argument was that they believed that the growth of Dargaville town would be better promoted if there were councillors with a specifically urban focus elected from the township. It was considered that the large number of rural councillors may not fully appreciate the problems and concerns of Dargaville.

- 22 The Council on the other hand, pointed to the fact that there has been a great deal of work done in Dargaville to improve the look of the town and that the present Council takes a unified approach to the well-being of all of its residents.
- 23 The present division of Dargaville town into 2 wards each containing significant areas of rural land, is unusual but not unique. However the Commission does not believe that merely being different means that change automatically should proceed. There was no hard evidence from the appellants that the Dargaville community of interest was not being effectively represented at this time. What was expressed was more of a concern that, perhaps in the future, there may be some disadvantage through the absence of a separate ward for Dargaville.
- 24 The Council on the other hand stated that, with its approach to looking to the welfare of the district as a whole, it would not take action which could be injurious to Dargaville.
- 25 On balance, the Commission believes that the present division of the district does continue to give effective representation to the several communities of interest within the district, including the Dargaville community of interest. At this time it considers there could well be advantages for the people of Dargaville in having the opportunity to vote for 5 of the 10 councillors. It has therefore determined that it will not uphold the appeals, but will confirm the Council's proposals on this occasion.
- 26 However, the Commission does note that the Council, at the time it resolved to decline the two objections, also resolved that it would carry out a thorough review of the electoral structure of the district prior to the elections to be held in 2001. The Commission commends this action to the Council, and will be interested to see what outcome arises from such a review. A particularly compelling reason for such a review is the current growth pattern within the district. The Commission notes that the small population increase of 320 between the 1991 and 1996 censuses was almost entirely in the west of the district. Apart from a small increase in the Kaipara Coastal Area Unit, the eastern part of the district population has continued to decline.
- 27 The Commission notes that there were no submissions from residents of the Otamatea Ward suggesting that the present ratio of population to members is unfair. This is the ward which, given the growth pattern

referred to above, is the one where it is likely that an increase in representation could be sought. However, the Commission believes that at this time, the disparity in ratios is not so great as to give an impression of unfairness. This is especially so as it will be one of the major issues the Council will have to address during the next triennial review. For this triennium, the Commission has resolved that it will confirm the present number of members to be elected from each ward.

Determination

- 28 Pursuant to section 101K of the Act, the Commission hereby determines that for the triennial general election in 1998:
- (1) The Kaipara District shall continue to be divided into 4 wards.
 - (2) Those 4 wards shall be:
 - (a) the Dargaville Ward, comprising the area delineated on S.O. Plan No. 63555 deposited with the Chief Surveyor of the North Auckland Land District;
 - (b) the Pouto Ward, comprising the area delineated on S.O. Plan No. 63552 deposited with the Chief Surveyor of the North Auckland Land District;
 - (c) the Ruawai Ward, comprising the area delineated on S.O. Plan No. 63553 deposited with the Chief Surveyor of the North Auckland Land District;
 - (d) the Otamatea Ward, comprising the area delineated on S.O. Plan No. 63554 deposited with the Chief Surveyor of the North Auckland Land District;
 - (3) The Council shall comprise a Mayor and 10 members who shall be elected as follows:
 - (a) three members, who shall be elected by the electors of the Dargaville Ward;
 - (b) two members, who shall be elected by the electors of the Pouto Ward;
 - (c) two members, who shall be elected by the electors of the Ruawai Ward; and
 - (d) three members, who shall be elected by the electors of the Otamatea Ward.
- 29 As required by section 101L(2) of the Act, the boundaries of the above wards coincide with the boundaries of current statistical mesh block areas 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