



LOCAL GOVERNMENT COMMISSION

Determination

of the membership and basis of election for the
general election of the Kapiti Coast District Council to
be held on 13 October 2001

BACKGROUND

- 1 The Kapiti Coast 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 the election of the Council to apply for the general election of the Council to be held in October 2001.
- 2 The Kapiti Coast District Council elected at the 1998 general election comprises 13 members and the Mayor. The 13 members were elected as follows:

Otaki Ward	3
Waikanae Ward	3
Paraparaumu Ward	4
Paekakariki-Raumati Ward	3
- 3 Following its review, the Council proposed that the Council comprise a Mayor and 9 members elected at large.
- 4 The Council received 67 objections to its proposal, 66 of which opposed district-wide elections.
- 5 Following consideration of the objections, the Council amended its proposal to provide for a 14 member Council to be elected from the existing four wards. Under this arrangement the representation of the Paraparaumu Ward would increase by one member.

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6 Two appeals and one counter-objection were received against the amended proposal from, respectively:

- Brian Colegate;
- Denis Ferrier; and
- John Fitzgibbon.

7 John Fitzgibbon objected to the Council's proposal to retain a ward system, and not introduce elections at large. Brian Colegate and Denis Ferrier both supported the proposed ward system, but sought a reduction in the number of members to nine. They sought the following allocation of members:

Otaki Ward	2
Waikanae Ward	2
Paraparaumu Ward	3
Paekakariki-Raumati Ward	2

Preliminary Matter for Determination

8 The Commission, on receiving advice of the appeals and counter-objection, resolved that before making a determination it would meet with the Council and the appellants and counter-objector if they wished to be heard. The Commission resolved to meet the Council and the appellants counter-objector in Paraparaumu on 22 February 2001.

The Hearing

9 The Council was represented by the Mayor (Iridie McCloy), the General Manger (Glenn Innes) and the Returning Officer (John Bowater). Brian Colegate and Denis Ferrier attended to speak to their counter-objections. John Fitzgibbon chose not to appear.

The Council:

The Returning Officer outlined the process the Council had gone through in arriving at its decisions and its reasons for those decisions. His comments may be summarised as follows:

- the original proposal put by officers to the Council had been for no change, however the Council considered that the time was right for change and an "at large" system with 9 members was adopted;
- 67 objections were received, this being a large number compared with previous reviews;
- a large proportion of the objections were from the outlying wards, principally Otaki and to a lesser degree Paekakariki. Objectors feared a loss of representation for those communities;

- in addition to the formal objections there were public meetings on the issue attended by a larger number of people;
- in making its final decision the Council had listened to the views of the electorate;
- the reaction to the reduction of number of councillors was more subdued than the reaction to the proposed “at large” system, there being 13 objections on the former issue;
- the proposal for the “at large” system was derived from an increasing district-wide approach being taken on decision-making and funding for Council programmes;
- having decided to abandon its proposal for an “at large” system the Council determined that the existing wards continued to adequately define communities of interest;
- the Council decided that population alone is the appropriate basis for allocating members to wards. One particular reason for this is the large area of the Otaki Ward included in the Tararua Forest Park;
- it noted that a membership of either 9 or 14 gave the best statistical fit;
- under an “at large” system it was proposed that individual communities of interest continue to be effectively represented by strengthening community boards; a Paraparaumu-Raumati Community would be constituted, giving the district completed community board coverage. It was envisaged that the responsibilities of community boards would be added to although what these might be were not specifically identified;
- current community board delegations are limited to issues such as deciding on local grants and street names. On other matters the power is to make recommendations only;
- in its original proposal the Council had not considered widening community board powers as it considered this should be left to a new Council;

Brian Colegate: Mr Colegate addressed his counter-objection. His comments may be summarised as follows:

- the basic issues that need to be addressed are:
 - * will a Council comprising a Mayor and 9 members provide fair representation, having regard to the population of each ward, and be able to satisfy the requirements of section 223C of the Local Government Act; and
 - * can the concerns of objectors opposed to a smaller council be met through other mechanisms;
- a 9 member council achieves a greater degree of fairness than a 14 member council or any other option between 9 and 14 (A table showing membership entitlements under membership totals ranging from 9 to 14 was presented);
- a 9 member council can be divided into committees to permit the separation required by section 223C of the Local Government Act;
- separation to meet this requirement is not size dependant but hinges on mechanisms to deal with situations where perceived or actual conflicts of interest

arise, e.g. appointment of commissioners, co-opting members to committees or delegating authority to staff;

- the Council in making its original proposal for a 9 member council had presumably considered at that stage that the requirements of section 223C could be met;
- a number of mechanisms existed for enhancing representation and participation without having to have a 14 member Council, including co-opting residents on to Council committees and increasing the role of community boards; and
- the proposed smaller Council and the community boards would collectively comprise 28 members which would should be adequate for a district the size of the Kapiti Coast District.

Denis Ferrier: Mr Colegate addressed his counter-objection. His comments may be summarised as follows:

- information had been presented to show that each ward would be fairly represented on a 9 member Council and that the Otaki and Waikanae Wards would be more fairly represented than on a 14 member Council; and
- any concerns about less effective leadership and decision-making, lack of community voice and councillor workload can be addressed through co-option of electors and others with expertise to committees; and
- a smaller Council would mean greater focus on policy-making and less time spent on non-policy matters which should be left to staff.

The Council in reply: The Council's representatives stated that:

- the Council had been through the triennial review process a number of times and the key issues have been debated in the proposals put to the community;
- the Council's proposal had drawn a fierce reaction from the Otaki community which did not believe that it would receive effective representation though an at large system;
- the Council had reacted to the views of the community and followed the statutory processes;
- the change from 9 to 14 councillors flowed from the decision to revert to a ward system. A total of 14 councillors which provides a good statistical result is closer to the status quo of 13 which does not provide a good statistical result;
- more delegations to the community boards under a 9 member council may have addressed some of the issues raised in the review process but would not have allayed the concerns of the Otaki community.

MATTERS FOR DETERMINATION

10 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.”*

11 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

12 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.

- 13 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 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 factors set out in the Act, provide the fairest representation on balance for the electors of each ward.
- 14 In the Commission's opinion, its first responsibility, which also applied to the Council, 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.
- 15 Kapiti Coast District contains a number of different and clearly identifiable communities of interest. These include the urban areas of Paekakariki, Raumati, Paraparaumu and Otaki, the smaller settlements such as Te Horo and a significant rural area in the Otaki Ward. The Commission came to the view that because of the number and diversity of the communities of interest in the District, effective representation of the various communities of interest could only be by councillors being elected on a ward basis.

Appropriate Ward System

- 16 Having decided that the basis of election will be a 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 every individual community of interest requires 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 There was no suggestion that the boundaries of the existing wards are inappropriate. The community of interest of each ward was discussed and identified in the Commission's 1995 decision for the Kapiti Coast District. Notwithstanding further urban development in the intervening period the Commission considers that its 1995 analysis remains valid. The Commission has therefore determined that the existing ward structure should continue for the 2001 elections.

Number of Members

- 20 Having decided that there will be 4 wards, the Commission is then required to determine what would be fair representation for the electors of the various wards. This was effectively the issue raised by Mr Colegate and Mr Ferrier in their appeals.
- 21 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. However, inherent in the decision to create an area as a ward is a requirement that the ward be represented by at least one member.
- 22 The Act does not specify what weightings are to be given to particular factors, however it does require the allocation of members to wards to result in fair representation for each ward. The Council used population as the sole criterion for the determining the number of members to be allocated to wards. The Commission agrees that this is the most appropriate approach for the Kapiti Coast District. It noted that the use of land area as a factor would be particularly distortionary because of the large proportion of the Otaki Ward comprising reserves administered by the Department of Conservation.
- 23 Set out below is a table showing the number of members that each ward would be entitled to using total numbers of members ranging from 9 to 14.

Ward	Population	%	Members					
			9	10	11	12	13	14
Otaki	7890	19.17	1.73	1.92	2.11	2.30	2.49	2.68
Waikanae	9750	23.69	2.13	2.37	2.61	2.84	3.08	3.32
Paraparaumu	14600	35.48	3.19	3.55	3.90	4.26	4.61	4.97

Paekakariki-Raumati	8910	21.65	1.95	2.17	2.38	2.60	2.81	3.03
Total	41150							

- 24 The above table shows that the greatest fairness can be achieved between the representation of each ward with a Council of 9 or 14 members. Statistically the difference between these two options is slight.
- 25 Having regard to the relatively rapid growth of the district and the consequent requirement for councillors to provide strategic and political leadership the Commission considers that a 14 member council would be most appropriate at this time. In making this decision the Commission has concluded that determining fair representation is not solely a mathematical exercise in identifying the total number of councillors that achieves the most precise statistical fit. Fairness in representation also requires an effectiveness in representation. The Commission is not confident that at this stage a council of 9 members could provide the necessary effectiveness for the Kapiti Coast District.
- 26 The Commission acknowledges the argument put forward by Mr Colegate and Mr Ferrier that other mechanisms could be used to relieve the burden on councillor workload should there be a smaller number of members. However given the current circumstances of the District the Commission does not consider that the ability to use such mechanisms outweigh the need for the greater proportion of the decision-making role to lie with directly elected members and for the electors of the district to participate in determining who should make those decisions.
- 27 Therefore, having considered all aspects of the matter of representation the Commission has concluded that the membership of the Council should total 14 members and the Mayor, taking into account the population of each ward, on the basis outlined above.

DETERMINATION

- 28 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) Kapiti Coast District, as delineated on SO Plan No 35973 deposited with the Chief Surveyor of the Wellington Land District, shall be divided into four wards:
 - (2) those four wards shall be:
 - (a) the Otaki Ward, comprising the area delineated on SO Plan No 35978 deposited with the Chief Surveyor of the Wellington Land

- District;
- (b) the Waikanae Ward, comprising the area delineated on SO Plan No 35977 deposited with the Chief Surveyor of the Wellington Land District;
 - (c) the Paraparaumu Ward, comprising the area delineated on SO Plan No 35976 deposited with the Chief Surveyor of the Wellington Land District;
 - (d) the Paekakariki-Raumati Ward, comprising the area delineated on SO Plan No 37410 deposited with the Chief Surveyor of the Wellington Land District;

- (3) The Council shall comprise a Mayor and 14 members of whom:
- (a) three members shall be elected by the electors of the Otaki Ward;
and
 - (b) three members shall be elected by the electors of the Waikanae Ward; and
 - (c) five members shall be elected by the electors of the Paraparaumu Ward; and
 - (d) three members shall be elected by the electors of the Paekakariki-Raumati Ward; and

29 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