



LOCAL GOVERNMENT COMMISSION

Determination

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

BACKGROUND

- 1 The Manukau 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 Manukau City Council elected at the 1998 general election comprises 20 members and the Mayor. The 20 members were elected as follows:

Pakuranga	3
Howick	3
Otara	2
Papatoetoe	3
Mangere	3
Manurewa	4
Clevedon	2

- 3 Following its review, the Council proposed to establish a new Botany Ward comprising parts of the existing Howick, Pakuranga, Otara and Clevedon Wards. Membership would be as follows:

Botany	1
Pakuranga	3
Howick	2
Otara	2
Papatoetoe	3

Mangere	3
Manurewa	4
Clevedon	2

The Council also proposed some alterations of the boundaries of the Mangere, Papatoetoe and Manurewa Wards to better reflect community of interest.

- 4 The Council commissioned an Independent Review Panel to undertake a review of the Council's electoral arrangements and make recommendations. The Council, however, did not follow the major recommendations of the including the creation of a Te Irirangi Ward which would have involved combining the southern part of the Howick Ward with the Otara Ward and the combining of the Pakuranga Ward and the remainder of the Howick Ward. After considering the Panel's proposal the Council developed alternative proposals for a Botany Ward focused on the Botany Centre currently under construction. The Council ultimately adopted its "small" Botany Ward option as opposed to a "large" Botany option which would have included most of the East Tamaki industrial area.
- 5 The Council received 15 objections to its proposal. The objections addressed ward boundaries, the basis of the representation formula and the application of the formula. Following consideration of objections the Council confirmed its earlier proposal.
- 6 The Council's decision was appealed by 10 individuals and organisations as follows:
 - C G Adams
 - Bucklands and Eastern Beaches Residents and Ratepayers Association
 - Clevedon Community Board
 - Cockle Bay Residents Ratepayers Association
 - DAO Community Network
 - Ted Faleauto
 - Greenmount and East Tamaki Business Association
 - Howick Community Board
 - Howick Ratepayers and Residents Association
 - Russell Wylie

Preliminary Matter for Determination

- 7 The Commission, on receiving advice of the appeals, resolved that before making a determination of the appeal it would meet with the Council and the appellants if they wished to be heard. The Commission resolved to meet the Council and the appellants in the Manukau City Council's offices on 2 February 2001.

The Hearing

8 The Council was represented by the Mayor, Sir Barry Curtis, Councillor Neil Morrison, Tony Spellman (Manager Democratic and Corporate Services) and Charles Rhodes (Ward Co-ordinator). The following appellants also attended to speak to their appeals:

- Howick Community Board, represented by Pat Booth
- C G Adams
- Bucklands and Eastern Beaches Residents and Ratepayers Association, represented by Shirley Warren
- Clevedon Community Board, represented by Graham Leggat and Callum McCallum
- Cockle Bay Residents Ratepayers Association, represented by Maureen Forrester
- Howick Ratepayers and Residents Association, represented by Maureen Forrester
- Russell Wylie
- Ted Faleauto

In addition the Manurewa Community Board requested the opportunity to appear before the Commission under section 101K(2) of the Act. This request was acceded to.

The Council: The Mayor discussed:

- the characteristics of Manukau City and the existing wards as they relate to the review of electoral arrangements;
- the urban development in the East Tamaki corridor and the resulting population growth and the projected population increase for the area;
- the emerging community of interest in the Botany area;
- the various proposals for the representation of that area formulated by the Independent Review Panel and the Council;
- the formula adopted determined fair representation;
- the manner in which the formula had been applied and why the Pakuranga Ward was allocated three members; and
- how the community board system is affected by the triennial review process.

Howick Community Board: The Board opposed the establishment of a Botany Ward at this stage as it had not yet developed a distinctive community of interest.

C G Adams: Mr Adams outlined an alternative ward arrangement which he considered better reflected communities of interest and fairness in the number of members per ward.

Bucklands and Eastern Beaches Residents and Ratepayers Association:

The Association favoured the creation of a “larger” Botany Ward including the East Tamaki industrial area, but with the retention of the Burswood area in the Pakuranga

Ward for community of interest reasons. It considered a new ward is necessary because of the rapid population growth in the area.

Clevedon Community Board: The Board opposed the creation of a Botany Ward because it would be difficult for one member to adequately meet the committee responsibilities of a councillor. It was also concerned that the transfer of areas out of the Clevedon Ward to a Botany Ward would undermine the viability of the ward.

Cockle Bay Residents Ratepayers Association: The Association supported the formation of a “large” Botany Ward but excluding some areas proposed in the original “large” Botany Ward. It considered that Howick Ward should retain 3 members and the Botany Ward should have two members. Representation should be determined by giving rateable value a weighting of 20%.

Howick Ratepayers and Residents Association: The Association opposed the creation of a “small” Botany Ward but favoured the creation of “large” Botany Ward.

Russell Wylie: Mr Wylie opposed the creation of a Botany Ward because of the affect it would have on the level of representation for the Howick Ward and the effectiveness of its representation.

Ted Faleauto: Mr Faleauto objected to the use of land area as a factor in determining the allocation of membership as it treats the Otara Ward unfairly compared to the Clevedon ward in particular.

Manurewa Community Board: The Board disagreed with the formula applied by the Council in allocating members to wards as it disadvantaged the Manurewa Ward. It advocated the use of a population only formula.

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 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.
- 13 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.
- 14 Manukau City contains a large population and a number of different communities of interest. The Commission came to the view that because of the number and diversity of the communities of interest in the City, effective representation of the various communities of interest could only be by councillors being elected on a ward basis.

Appropriate Ward System

- 15 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 City. 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.
- 16 The Commission emphasises that wards are for electoral purposes only, and that the Council is the entity to which members are elected.
- 17 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.

- 18 The specific issues required to be considered by the Commission in the case of Manukau City are:
- three boundary alterations between wards, specifically:
 - * the transfer of an area south-east of Massey Road from the Mangere Ward to the Papatoetoe Ward;
 - * the transfer of an area Mangere East from the Papatoetoe Ward to the Mangere Ward; and
 - * the transfer of an area north of Puhinui Road from the Manurewa Ward to the Papatoetoe Ward;
 - the proposed Botany Ward; and
 - in general terms the entire ward structure of Manukau City.
- 19 For each issue the questions to be asked are whether the boundaries provide for wards that define communities of interest and whether those communities of interest or groupings of community of interest require separate representation to achieve effective representation.
- 20 In the case of the first issue the Commission is satisfied that the proposed boundary alterations will better reflect actual communities of interest. It notes that these changes were agreed to by the relevant community boards.
- 21 The second issue is the question of the proposed Botany Ward. The Council pointed to the rapid growth in this part of the City and the developing nature of the “Botany” community. It also spoke of the projected growth of the area and its ability to accommodate an additional population of 60,000 by 2015. Compared to the existing population of 11,550 such growth is obviously large. Should it occur it will have a profound affect on the electoral arrangements for the City in future years.
- 22 The theme of the Council’s presentation was one of an emerging community with a developing identity which required separate representation. The view expressed by some appellants, on the other hand, was that the community had not yet emerged to a significant enough degree to warrant separate representation. They argued that the area did not yet have many of the facilities that help to define a community and that in affect the area is still overspill or southwards growth from Howick.
- 23 The Commission has carefully considered the information provided to it by the Council and the relevant parts of the Independent Review Panel’s report. Notwithstanding the arguments put forward by the Council the Commission is not convinced that the proposed Botany Ward at this stage of development comprises a distinct enough community of interest to require separate representation. It also has some concerns about whether the proposed arrangements would provide for effective representation. The ward would be represented in the next triennium by one member. The Commission is concerned about the burden of representing a ward undergoing such rapid change that would have to be assumed by that one

councillor. At this point of time the Commission considers that the area would be more effectively represented under the current boundaries.

- 24 Having said this, the decision not to establish a Botany Ward should not be taken as a decision that needs to continue with permanence. The situation will be need to be reviewed as population and urban growth occurs and as the community develops both in the sense of its identity and in the infrastructure that helps to define a community. As noted above the growth in this part of the City will have a profound affect on the electoral arrangements for the City in future years.
- 25 The Commission did consider enlarging the area of the Howick Ward to include the entire area of the Botany development. However, it decided not to. In considering this mater it noted that:
- most of the developed Botany area is already within the existing boundaries of the Howick Ward;
 - very little development had so far occurred in that part of the Clevedon Ward proposed to be included in the Botany Ward;
 - in respect of the Burswood area there was a view expressed by an appellant that it had a greater community of interest with the Pakuranga ward than with the Botany area;
 - development had occurred in parts of the Otara Ward, particularly Huntingdon Park and in the Smales Road area, but in most part it was very recent or still taking place.
- 26 On the basis of this the Commission did not consider it appropriate to make ad hoc alterations to the boundaries of the wards concerned. In this case they are best left to a more comprehensive change when the Botany community has emerged as one requiring separate representation or other significant change is warranted.
- 27 On the question of the ward structure of the City generally the Commission is satisfied that the boundaries of each ward do identify communities of interest requiring separate representation to ensure effective representation. The Commission has therefore decided that, subject to the three boundary alterations referred to in paragraph 18, the current seven wards should continue for the 2001 elections of the Council.

Number of Members

- 28 Having decided that there will be seven wards, the Commission is then required to determine what would be fair representation for the electors of the various wards.
- 29 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.

- 30 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 (90%) and area (10%) as the criterion for the determining the number of members to be allocated to wards. The Commission agrees that this is an appropriate approach for Manukau City. Although some appellants sought changes to the weightings given to factors or the use of rateable value as a factor, the factors and weightings applied by the Council are reasonable when compared to the factors and weightings used in other similar districts.
- 31 Set out below is a tables showing the number of members that each of the isthmus wards would be entitled to using total numbers of members ranging from 18 to 20.

Ward	Factor Value	Members		
		18	19	20
Clevedon	10.60	1.91	2.01	2.12
Howick	14.64	2.64	2.78	2.93
Mangere	16.17	2.91	3.07	3.23
Manurewa	21.52	3.87	4.09	4.30
Otara	11.52	2.07	2.19	2.30
Pakuranga	12.72	2.29	2.42	2.54
Papatoetoe	12.83	2.31	2.44	2.57

- 32 The Commission considers that the application of ward population and area shows that fairness can be achieved between the representation of each ward with a Council of 20 members based on the formula adopted by the Council. Therefore, having considered all aspects of the matter of representation the Commission has concluded that the membership of the Council should total 20 members and the Mayor as follows.

Pakuranga	3
Howick	3
Otara	2
Papatoetoe	3
Mangere	3
Manurewa	4
Clevedon	2

- 33 There is one other matter relating to the allocation of members to wards the Commission wishes to comment on. The Council stated that in allocating members it had applied a 90% population - 10% area formula. This should have been a straightforward statistical exercise. Under the “Botany Ward” proposal application of the formula gives the Pakuranga Ward two members. The Council decided, however, to allocated a third member to the Pakuranga Ward. This was explained to the Commission as being because the new Pakuranga Ward would have been almost identical in area to the existing Pakuranga Ward and that three members would be justified because that is the membership the ward has now.
- 34 Although given the Commission’s decision on the ward structure has overtaken this issue, the Commission considers it worth observing that the Council’s decision regarding the Pakuranga Ward appears to it to be a departure from the criterion of fairness of representation between wards required by the Act. The Commission considers that if a particular formula for allocating members to wards is adopted it must be applied in an objective and even-handed manner.

DETERMINATION

- 35 Under section 101K of the Act, the Commission, determines that for the general election of the Manukau City Council to be held on 13 October 2001 -
- (1) Manukau City, as delineated on SO Plan No 63495 deposited with the Chief Surveyor of the North Auckland Land District, shall be divided into seven wards:
 - (2) Those seven wards shall be:
 - (a) the Pakuranga Ward, comprising the area delineated on SO Plan No 63501 deposited with the Chief Surveyor of the North Auckland Land District:
 - (b) the Howick Ward, comprising the area delineated on SO Plan No 63502 deposited with the Chief Surveyor of the North Auckland Land District:
 - (c) the Otara Ward, comprising the area delineated on SO Plan No 63507 deposited with the Chief Surveyor of the North Auckland Land District:
 - (d) the Papatoetoe Ward, comprising the area delineated on SO Plan No 63506 deposited with the Chief Surveyor of the North Auckland Land District:
 - (e) the Mangere Ward, comprising the area delineated on SO Plan No 63505 deposited with the Chief Surveyor of the North Auckland Land District:
 - (f) the Manurewa Ward, comprising the area delineated on SO Plan No 63504 deposited with the Chief Surveyor of the North Auckland Land District:
 - (g) the Clevedon Ward, comprising the area delineated on SO Plan No 63503 deposited with the Chief Surveyor of the North Auckland Land District.
 - (3) The Council shall comprise 20 members of whom:
 - (a) three members shall be elected by the electors of the Pakuranga Ward; and
 - (b) three members shall be elected by the electors of the Howick Ward; and
 - (c) two members shall be elected by the electors of the Otara Ward; and
 - (d) three members shall be elected by the electors of the Papatoetoe Ward; and

- (e) three members shall be elected by the electors of the Mangere Ward; and
- (f) four members shall be elected by the electors of the Manurewa Ward; and
- (g) two members shall be elected by the electors of the Clevedon Ward.

36 As required by section 101L(2) of the Local Government Act 1974, 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