



## LOCAL GOVERNMENT COMMISSION

# Determination

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

### BACKGROUND

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

Pelorus/Northern Marlborough Sounds Ward	1 member
Picton Ward	1 member
Wairau Ward	3 members
Awatere Ward	1 member
Blenheim Ward	6 members
- 3 Following its review, the Council proposed the following changes to its existing system of wards and membership:
  - (a) the transfer of Meshblocks 2286401 and 2286403 from the Pelorus/Northern Marlborough Sounds Ward to the Picton Ward;
  - (b) the transfer of Meshblocks 2279300, 2279400, 2279500 and 2280001 from the Wairau Ward to the Picton Ward; and
  - (c) the provision of one additional member for the Picton Ward.

The reasons outlined by the Council in its Public Notice for the proposed changes may be summarised as follows:

- the Council considered that due to the additional pressures of Unitary Council responsibilities that the 13<sup>th</sup> councillor should be reinstated; and
- the Council in determining the number of members to be elected by the electors of the wards, considered there would be fair representation having regard to the population of every ward and taking into account rateable value, area and other characteristics of the various wards and further that the retention of the five wards as stipulated, will provide effective representation of communities of interest within the District.

4 The Council received two objections to its proposal, and two letters in support. The objections were from:

- Gerald Hey; and
- Leo McKendry.

Both objections argued that the Council's proposal does not provide fair representation for the Blenheim Ward.

5 Following consideration of the objections, the Council confirmed its original proposal. Mr Hey appealed the Council's decision.

### **Subject Matter of Appeal**

6 Mr Hey sought to have the membership of the Blenheim Ward increased by two members to address an imbalance in representation between the Blenheim Ward and the rural wards of the District.

7 In his letter of appeal Mr Hey also put forward, as an alternative option, the proposition of elections at large. The Council's legal counsel queried with the Commission the relevance of this matter to the appeal as the question of elections at large was not raised in Mr Hey's objection to the Council's initial proposal. After consideration of the issue the Commission advised Mr Hey that that portion of his notice of appeal in which the matter of elections at large was raised would not be considered by the Commission.

### **Preliminary Matter for Determination**

8 The Commission, on receiving advice of the appeal, resolved that before making a determination of the electoral arrangements of the Council, it would meet with the Council and the appellant if he wished to be heard. It also resolved, under clause 2 of Schedule 3A of the Act, to appoint a committee (hereafter referred to as "the Committee"), comprising the Commission's Chairman (Sir Ross Jansen) and

Commissioner Durbin to hear, consider and determine the appeals. The Committee resolved to meet the Council and the appellants in Blenheim on 11 December 2000.

## The Hearing

- 9 The Council was represented by the Mayor (Gerald Hope) and the Council's legal counsel ( Brian Dwyer). Ms Monyeen Wedge of the Lochmara Bay Residents Association appeared as a witness in support of the Council's proposal. Councillor Tom Harrison appeared as a witness in support of Mr Hey.

*The Council:* Mr Dwyer spoke to a submission. The content, his comments and replies to questions may be summarised as follows:

- the decision to increase the size of the Picton Ward is a logical extension, reflecting the ward's community of interest;
- as a result of the increase to the size of the Picton Ward its population would increase to 5139 persons, compared with 4471 within the present boundaries;
- Council considers that the Picton Ward requires an additional member to ensure effective and fair representation;
- there are a range of issues of particular significance to the Picton Ward, that when combined with the increased population, make it necessary for an additional member to be provided for that ward to achieve fair representation;
- the Council does not consider it necessary to provide two additional members for the Blenheim Ward;
- the Council's decision is based on weightings of population - 80%, rateable value - 10% and land area - 10%;
- the Council has determined that the application of population alone would not result in fair representation, particularly in the Sounds area due to its remoteness, access difficulties, major development issues, widely scattered rural areas and the high absentee population; and
- the Council's proposals have not produced any substantial elector opposition.

The Mayor spoke to a submission. Its contents, his comments and replies to questions may be summarised as follows:

- the territory of the Council is as diverse an area as that of any New Zealand local authority;
- the representation requirements of the Council are influenced by the District's geographical features, making ward representation appropriate;
- no opposition has been forthcoming to the Council's proposal to enlarge the size of the Picton Ward;
- as a consequence of the ward boundary changes the population of the Picton Ward will increase;

- the representation of the Picton Ward needs to be considered in the context of the major issues particular to that ward:
  - the impacts of shipping traffic through Tory Channel and Queen Charlotte Sound
  - Picton Port issues, including its future use by Tranz Rail
  - the development of Shakespeare Bay by Port Marlborough
  - the major redevelopment and extension of Picton marina
  - forestry development in the Queen Charlotte/Port Underwood area and its impact on roading
  - tourism development, particularly in the Queen Charlotte Sound
  - infrastructure in Picton township;
- the present situation is unfair on the single Picton representative;
- neither the objectors nor the appellant oppose the addition of a further representative for the Picton Ward;
- the Blenheim Ward is the most compact and easiest to service;
- within the Blenheim Ward there are very few major issues, and there are no substantial local government issues;
- the Council does not have block voting;
- the demand by the applicant for “equality” fails to recognise the unique Marlborough situation with its wide area, diverse geography and the unique difficulties arising out of development and use of the Marlborough Sounds;
- the Council processes resource consent applications to a very high standard; and
- District roading is dealt with from a network perspective across the District.

*Mr Hey* spoke to a submission. The content, his comments and replies to questions may be summarised as follows:

- the Blenheim Ward requires two additional Councillors to provide fair representation;
- under the Council’s proposal the population per Councillor is 2444 in the rural wards and 3548 in the Blenheim Ward;
- the Awatere Ward needs to be enlarged and renamed “Southern Marlborough” - this enlargement can be achieved through the transfer of an area with a population of approximately 600 from the Southern Valleys vicinity of the Wairau Ward;
- if the Blenheim Ward were to have the same representation as the rural sector it would need 8.67 Councillors;
- Mr Hey is not opposed to the provision of an additional member for the Picton Ward;
- when the full duties of a unitary authority are considered, there are huge workloads imposed on councillors by applications and hearings for resource consents;

- the workload problems of Councillors can be rectified through the provision of an extra Councillor for the Picton Ward and two extra Councillors for the Blenheim Ward;
- the chairmen of Council Committees are mostly from outside the Blenheim Ward;
- political party influence is a problem - fair representation will help dilute this influence; and
- determining the membership of the Council on the basis of applying weightings of 80% population, 10% rateable value and 10% area is questionable.

**Mr Tom Harrison**, a member of the Marlborough District Council, appeared as a witness regarding Mr Hey's comments on Councillor workload. His comments may be summarised as follows:

- Mr Harrison is opposed to the proposed ward system;
- most of the workload of the Council is outside the Blenheim area;
- the Council is one of the busiest territorial authorities in New Zealand; and
- resource consent hearings can take 4 days, with a lot of background reading and research required.

**Lochmara Bay Residents Association:** Ms Monyeen Wedge, Secretary of the Association, appeared as a witness in support of the Council's proposal. Her comments may be summarised as follows:

- the Association regularly appears at planning and consent hearings;
- the proposal of the Council is to adjust the boundaries of the Picton Ward to reflect the more realistic area of "community with common interest";
- the appellant does not directly oppose the boundary changes and additional representation for the Picton Ward;
- the appellant does not address the issue of representation on a ward by ward basis - to support his view he combines the populations of the rural wards rather than looking at each separately;
- there are a significant number of absentee ratepayers with residences in the Picton/Sounds area, and few in the Blenheim area - if these absentee ratepayers were factored into representation figures it could be suggested that the Pelorus/Northern Marlborough Sounds Ward is under-represented; and
- the Association supports the Council's proposal.

**The Council in reply:** Mr Dwyer's comments may be summarised as follows:

- the Council determined its membership in accordance with the requirements of the Act;
- the weightings applied by the Council were the same as those applied by the Local Government Commission in its 1998 determination; and
- Blenheim councillors would have opposed an increase to the number of members representing their ward.

## MATTERS FOR DETERMINATION

10 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 29<sup>th</sup> 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 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.

14 In the Committee'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 The Marlborough District is a large and diverse area. It contains a diversity of geographical characteristics, including land types, a mix of townships and the major urban area of Blenheim, rural farming areas and marine farming in sheltered coastal areas. The Committee came to the view that because of the size and diversity of the District, effective representation of the various communities of interest could only be achieved at this time by councillors being elected on a ward basis. In reaching its decision, the Committee noted that the Council did not receive valid objections to the division of the District into wards for electoral purposes.

## **Appropriate Ward System**

- 16 Having decided that the basis of election would be the ward system, the Committee 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 Committee 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 Committee emphasises that wards are for electoral purposes only, and that the Council is the entity to which members are elected.
- 18 In the Committee'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 District be divided into 5 wards. Those wards would remain based on those determined by the Commission in its 1998 determination, except for the transfer of meshblocks to the Picton Ward from the Pelorus/Northern Marlborough Sounds Ward and the Wairau Ward. The Council considers that the proposed enlargement of the Picton Ward more effectively integrates the community of interest of that ward.
- 20 Having considered the evidence presented to it at the hearing of the appeal, and other material gathered by it, the Committee is satisfied that the wards proposed by the Council more or less equate to the communities of interest requiring separate representation on the Council. In coming to that conclusion, the Committee considered the distinct nature of each community and the geographical characteristics of the District. The Committee noted that the Council received no objections to its specific ward system it proposed. To give proper effect to the wards as proposed by the Council, the Committee found it necessary to include meshblock 2279705 in the area to transfer from the Wairau Ward to the Picton Ward.

## **Number of Members**

- 21 Having decided that there will be 5 wards, the Committee is then required to determine what would be fair representation for the electors of the various wards.
- 22 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.

- 23 Set out below are two tables. Table 1 shows the number of members that each ward would be entitled to taking into account population only with a total membership of 13 (excluding the Mayor) as proposed by the Council, or with a total membership of 12 (as at present), 14 and 15. Table 2 shows the same information taking into account the three factors of population weighted at 80%, rateable land value weighted at 10%, and area weighted at 10%, as were applied by the Council. The population figures applied in the tables are 1996 Census population figures provided by Statistics New Zealand.

Table 1

Ward	Population	%	12 members	13 members	14 members	15 members
Pelorus/Northern Marlborough Sounds	2560	6.67	0.80	0.86	0.94	1.00
Picton	5139	13.38	1.61	1.74	1.87	2.01
Wairau	7879	20.52	2.46	2.67	2.87	3.08
Awatere	1531	3.99	0.48	0.52	0.56	0.60
Blenheim	21288	55.44	6.65	7.21	7.76	8.31

Table 2

Ward	Factor Value	12 members	13 members	14 members	15 members
Pelorus/Northern Marlborough Sounds	9.42	1.13	1.23	1.32	1.41
Picton	13.16	1.58	1.71	1.85	1.98
Wairau	23.60	2.83	3.07	3.31	3.54
Awatere	6.88	0.83	0.89	0.96	1.03
Blenheim	46.94	5.63	6.10	6.56	7.04

- 24 Given the diversity of the District and the responsibilities of the Council as a unitary authority, the Committee has given consideration to applying factors of rateable land value and area, in addition to that of population. The weighting applied to each factor is the same as the Commission usually applies to districts with a significant proportion of rural land. The inclusion of the two additional factors of area and rateable value enable two measures of Council activity to be taken into account. The use of area as a factor enables recognition to be given to the fact that land-based activities over less densely populated areas are a significant part of the responsibilities and expenditure of the Council. The use of rateable value enables due regard to be given to people-based activities which require the provision of services and infrastructure and the regulation of development in more closely settled areas.

- 25 The arguments put forward by the appellant for an increase to the representation of the Blenheim Ward are based on the application of population alone. In this case, the Committee is satisfied that the application of the factors of rateable value and area in addition to population, as weighted above, better enable fairness of representation between the electors of each ward to be achieved, taking into account the geographic features of the District and the Council's unitary responsibilities.
- 26 Table 2 shows that the fairest representation is achieved with a 13 member Council. Having considered all aspects of the matter of representation the Committee has concluded that the membership of the Council should total 13 members and the Mayor, taking into account population, rateable value and area on the basis outlined above.

## **DETERMINATION**

- 27 Under section 101K of the Act, the Committee, acting under delegated authority from the Commission, determines that for the general election of the Council to be held on 13 October 2001 -
- (1) The Marlborough District as delineated on S.O. Plan 6824 deposited with the Chief Surveyor of the Marlborough Land District, shall be divided into 5 wards;
  - (2) Those 5 wards shall be -
    - (a) The Pelorus/Northern Marlborough Sounds Ward, comprising the area delineated on S.O. Plan No. 7025 deposited with the Chief Surveyor of the Marlborough Land District:
    - (b) The Picton Ward, comprising the area delineated on S.O. Plan No. 7418 deposited with the Chief Surveyor of the Marlborough Land District:
    - (c) The Wairau Ward, comprising the area delineated on S.O. Plan No. 6821 deposited with the Chief Surveyor of the Marlborough Land District:
    - (d) The Awatere Ward, comprising the area delineated on S.O. Plan No. 6822 deposited with the Chief Surveyor of the Marlborough Land District:

- (e) The Blenheim Ward, comprising the area delineated on S.O. Plan No. 7338 deposited with the Chief Surveyor of the Marlborough Land District;

- (3) The Council shall comprise the Mayor and 13 members who shall be elected as follows -
- (a) one member shall be elected by the electors of the Pelorus/Northern Marlborough Sounds Ward;
  - (b) two members shall be elected by the electors of the Picton Ward;
  - (c) three members shall be elected by the electors of the Wairau Ward;
  - (d) one member shall be elected by the electors of the Awatere Ward; and
  - (e) six members shall be elected by the electors of the Blenheim Ward.

28 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 COMMITTEE OF THE COMMISSION**

Sir Ross Jansen (Chairman)  
Barbara Durbin (Commissioner)

27 March 2001