



LOCAL GOVERNMENT COMMISSION

Determination

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

BACKGROUND

- 1 The Napier 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 Napier City Council elected at the 1998 general election comprises 12 members elected by the electors of the City as a whole, and the Mayor.
- 3 Following its review, the Council decided to retain the current electoral arrangements for the 2001 election.
- 4 The Council received two objections to its proposal from:
 - The Napier Rural Ratepayers’ Association; and
 - The Taradale and District Community Development Association Inc.

The Napier Rural Ratepayers Association objected to elections at large, and argued for a rural ward to represent the rural community of interest of the City.

The Taradale and District Community Development Association Inc. objected to elections at large, and argued for the provision of a ward encompassing the Taradale area.

- 5 Following consideration of the objections, the Council confirmed its original proposal. Each of the objectors appealed the Council’s decision on the basis of the matters raised in their respective objections.

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Preliminary Matter for Determination

- 6 The Commission, on receiving advice of the appeals, 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. The Commission resolved to meet the Council and the appellant in Napier on 18 January 2001.

The Hearing

- 7 The Council was represented by Councillor John Harrison, Chairperson of the Corporate Finance Committee. The Napier Rural Ratepayers' Association was represented by Mrs Ann Dixon and Mr Bill Millar. The Taradale and District Community Development Association was represented By Mr RB Twaddle and Mr Barry Marshall.

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

- Napier City has the second smallest land area of any New Zealand local authority;
- a referendum held at the time of the 1995 elections showed an overwhelming majority in favour of abolishing the ward system and for city-wide elections to be adopted;
- Napier is a seamless city with no natural barriers between suburbs, with utilities being fully integrated except for the Bayview area;
- the Council is well represented throughout the City and its members take a city-wide perspective rather than a narrow, geographically confined approach when addressing concerns;
- most strategic and policy issues addressed by the Council are significant throughout the City and not just for a specific suburb;
- elections at large provide greater opportunity for new Councillors to be elected, and for the representation of minorities or political groupings;
- citizens want the right to vote for the best candidates on a city-wide basis;
- the City currently has one councillor for every 4539 citizens;
- twelve councillors are necessary because many have work commitments when civic functions are held;
- with regard to the Napier Rural Ratepayers' Association's appeal:
 - the Association wants two members to represent the rural area, which comprises 6.9% of the population - on this basis the Council would need at least 20 Councillors to maintain the ratio throughout the City
 - the Association represents 51 paid up members

- it only represents ratepayers in the Meeanee/Awatoto area - with a total population of 1405, 2.63% of the City's population
 - it does not represent the majority of rural residents who live in Poraiti and Bayview - the Bayview Ratepayers Association has been a vociferous supporter of the status quo and has never wished to be part of a ward system
 - the vast majority of the rural population work in the urban area, and all rural residents are within five minutes drive of the urban area; and
- with regard to the Taradale & Districts Community Development Association appeal:
 - the Association supports the present number of members subject to its appeal being successful
 - the Association has a paid up membership of 32, and purports to represent an area with a population of 14765
 - the urban area draws all its water supply from Taradale and Taradale sewerage enters the urban system
 - the roading network is seamless and there are no natural barriers between the suburb of Taradale and the remainder of the City
 - there is no difference in the community of interest between Taradale and any other suburb
 - Taradale is well served by Councillors irrespective as to where they themselves reside
 - the vast majority who live in Taradale work in the urban area, while urban dwellers work in Taradale at the Eastern Institute of Technology, schools etc.
 - the Association, in its submission, acknowledges that there no unique geographic features for Taradale or Greenmeadows.

The Napier Rural Ratepayers' Association: Mrs Ann Dixon spoke to a submission. Its contents, her comments and replies to questions may be summarised as follows:

- the Association contends that rural Napier does have a different community of interest from that of urban Napier;
- while the bulk of population in rural Napier is rural residential, this does not affect the predominantly rural aspect of the area;
- within Napier there are at least two distinct communities of interest - rural and urban;
- the rural area has not been effectively represented under the "at large" voting system;
- Councillors are needed who know the concerns of rural electors and can convey that knowledge around the Council table;
- currently, the rural electors are completely out-voted by urban electors - their votes simply do not count;

- over 30,000 urban electors, as against a little over 2,000 rural electors can always dominate the voting;
- there may be justification for two rural wards - one in the Northern part of the City and one in the South;
- the Association acknowledges the Council's comments that most rural housing is rural residential and that most rural dwellers work in the urban areas of the City; and
- the rural area has sealed roads and rubbish collection, but generally no water or sewerage reticulation.

The Taradale & District Community Development Association (Inc): Mr Barry Marshall spoke to a submission. Its contents, his comments and replies to questions may be summarised as follows:

- the Association has noted a falling away in the representation of the Taradale area since the City moved back to a city-wide form of representation;
- with city-wide voting, first time candidates need to spend a good deal of money to have any chance of success - unfortunately many good candidates do not have such resources;
- wards provide a smaller and local section of the City to canvass, enabling a candidate to be better known in the community and for their merit for election to be better assessed by electors;
- a ward system cultivates in Council members a greater awareness of the balance that needs to be maintained in making decisions - a balance which reflects a responsibility to the City as a whole without impairing the duty they owe to their constituency; and
- the Taradale area has experienced significant population growth since the 1996 Census.

Mr RB Twaddle also spoke to a submission. Its contents, his comments and replies to questions may be summarised as follows:

- many of Taradale's present qualities and loyalties derive from an exceptionally long period of separate development - virtually from 1844 to 1968;
- a map of 1865 shows the huge physical obstacles between Napier and the land area to the south where Taradale, Greenmeadows and Meeanee were struggling to exist despite constant flooding from the Tutaekuri River;
- as a consequence of the 1931 earthquake, the raised seabed enabled Napier's residential suburbs to spread slowly south as swamps were reclaimed;
- from the beginning Taradale had no choice but to develop independently and by its own resources;
- the physical and political separation from Napier led to the establishment of many essential services and significant local institutions that remain to this day as the basis of Taradale's community life; and

- Taradale is a community with a distinct heritage and community of interest, and one that merits adequate direct representation on the Council.

The Council in reply: Cr Harrison’s comments may be summarised as follows:

- the rural portion of the City was represented by one Councillor in the previous term;
- Cr Harrison could not recall any instance of a request from a rural ratepayer not being appropriately responded to;
- the Taradale and District Community Development Association has acknowledged that there are no unique geographical features distinguishing the Taradale area from the rest of the City;
- there are currently two senior Councillors who reside in the Taradale area; and
- all areas of the City are treated by the Council on an equal basis.

MATTERS FOR DETERMINATION

- 8 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.”

- 9 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

10 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.

11 If the Commission determines that wards are required, it 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

factors set out in the Act, provide the fairest representation on balance for the electors of each ward.

- 12 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 for communities of interest within the City.
- 13 The Council elected at the 1998 elections was elected on an "at large" basis. The move towards city-wide elections followed a referendum held at the time of the 1995 elections, in which the majority of those who voted favoured a city-wide system.
- 14 The two appellants seek the reintroduction for a ward system to provide in one case, for separate representation of the rural parts of the City, and in the other, for separate representation for the Taradale area. The issues for the Commission to consider in this regard are two-fold: firstly, does each of those areas represent a distinct community of interest, and if so, secondly, is the nature of each community of interest such that it requires separate representation to enable effective representation to be achieved.
- 15 The rural parts of the City are located on the northern and southern areas of the City. The northern rural area is located around Bayview and Eskdale, while the southern area is located around Awatoto, Poraiti, Jervoistown and Meeanee. The evidence presented to the Commission indicated that the main activities in these rural areas were orcharding, flower growing and lifestyle blocks, and that many of the residents of these areas work in the urban area of the City. Although these areas make up a significant proportion of the total area of the City, in the context of rural units of New Zealand local government the rural areas of the City are very small. The Commission is of the view that while residents of the rural areas of the City may have a different sense of existence from the more densely populated parts of the City, the relatively small land area and population of the rural areas, their proximity to the Central Business District, and ease of access to Council services are such that separate representation on the Council is not required to provide effective representation for the rural areas of the City.
- 16 In terms of the Taradale area, the Commission acknowledges that many residents of the area retain the sense of a Taradale identity that is somewhat distinct from the rest of the City. While this sense of identity is a feature of the Taradale community, the area itself is a fully integrated part of the City, having service provision in common with the other urban and suburban parts of the City. There are no distinctive geographic characteristics that in any way isolate the Taradale area from other parts of the City. The Commission is of the view that the local government issues facing residents of the Taradale area are the same as for residents in other parts of the

City; and given its integration with the rest of the City in terms of Council services, and the lack of geographic isolation, the Commission is satisfied that separate representation is not required to provide effective representation for the Taradale area.

- 17 Having considered the evidence presented to it at the hearing of the appeals, and the other material gathered by it, the Commission is satisfied that the election of the Council by the electors of the City as a whole will provide for the effective representation of the overall Napier City community of interest.

Number of Members

- 18 Having decided that the basis of election will be the “at large” system, the only other matter to be determined by the Commission is the number of Councillors to be elected to the Council.
- 19 The Council elected at the 1998 elections has 12 members (excluding the Mayor). In its written objection to the Council’s initial proposal, the Taradale and District Community Development Association stated that it favoured 10 members if the “at large” voting system was retained.
- 20 With a 12 member Council, each councillor represents approximately 4540 residents. This ratio is fairly similar to membership ratios applying to a number of other New Zealand provincial cities. In the absence of any substantive arguments being put forward to the Commission for changing the total representation of the Council under an “at large” system, the Commission has decided that the membership of the Council should remain at 12 (excluding the Mayor).
- 21 From the information presented to it, the Commission is satisfied that for the 2001 elections, it is appropriate for the Council to comprise 12 members (excluding the Mayor) to provide effective representation for the electors of the City as a whole.

DETERMINATION

- 22 Under section 101K of the Act, the Commission determines that for the general election of the Napier City Council to be held on 13 October 2001 -
- (1) Napier City as delineated on S.O. Plan 9830 deposited with the Chief Surveyor of the Hawke’s Bay Land District, shall not be divided into wards;

- (2) The Council shall comprise the Mayor and 12 members who shall be elected by the electors of the City as a whole.

THE LOCAL GOVERNMENT COMMISSION

Sir Ross Jansen	(Chairman)
Barbara Durbin	(Commissioner)
Bruce Anderson	(Commissioner)

27 March 2001