

NORTH SHORE CITY COUNCIL

Background

- 1 The North Shore City Council (hereafter referred to as “the Council”), in accordance with section 101H of the Local Government Act 1974 (hereafter referred to as the “Act”), carried out a review of its membership and basis of election of members for the triennial election to be held in October 1998.
- 2 The present membership of the Council is a Mayor and 19 members elected as follows -

Wards	Members
Albany	2
Birkenhead/Northcote	4
Devonport	2
East Coast Bays	4
Glenfield	3
Takapuna	4

- 3 The Council reviewed its membership and basis of election in accordance with 101H of the Local Government Act and resolved that the existing wards be retained but that the number of members of the Council be reduced from 19 to 16. It proposed that the number of members to be elected by each ward shall be -

Wards	Members
Albany	2
Birkenhead/Northcote	3
Devonport	2
East Coast Bays	3
Glenfield	3
Takapuna	3

- 4 The Council received six objections to its proposals. Those objections were from P A Caisley, Castor Bay Ratepayers and Residents Assn Inc; Hon George F Gair, D F McKay, R E Morris, and W Tisdall. Five of these six objections sought a 3 ward structure for the Council with 5 members being elected from each ward. The sixth objection from the Castor Bays Ratepayers’ and Residents’ Assn objected to the Council’s proposal on the basis that the distribution of membership would be inequitable in terms of both population and the amount of rates collected from each ward.
- 5 The Council declined each of the objections.

Appeals

- 6 Each of the objectors appealed against the Council’s decision.

Matter for Preliminary Determination

- 7 As a result of the review it conducted of North Shore City, the Commission is quite familiar with the issues relating to the Council's membership and basis of election. The Commission therefore resolved not to meet with the appellants and the Council but to consider the appeals on the basis of the papers that had been sent to it.

Matters for Determination

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

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“(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 sections (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 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

- 10 The Commission considers that when deciding -
- (a) whether the election of the members of the 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 those wards,

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.

- 11 The Commission 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 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 indicative as 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.

- 12 On 28 July 1997 the Commission, pursuant to section 37ZZA of the Act resolved to adopt a reorganisation scheme for the North Shore City which provided for a new ward structure and the membership of the Council. The draft reorganisation scheme on which this scheme was based, was issued following a review of North Shore City conducted under section 37ZZTB of the Act. Section 37ZZTI provides that where such a scheme has determined the membership and wards to apply in the next triennial election of a local authority, that determination shall have effect notwithstanding anything in Part IBA of the Act. In other words the Commission's scheme supersedes the triennial review process. However, as the reorganisation scheme had not been implemented by Order in Council at the time when the North Shore City Council was required to complete its review of membership and basis of election the Council carried out the review required by section 101H. Likewise as the Order in Council implementing the Commission scheme will not have come into effect prior to 29 March, the date by which the Commission is required to consider any appeals forwarded to it, the Commission must determine the membership and basis of election for the North Shore City Council to apply at the election of the Council to be held on 11 October 1998. It does so in the knowledge that when the Order in Council giving effect to the Commission scheme comes into force on 11 April 1998 this present determination shall cease to have any effect.

- 13 In considering the Council's proposal the Commission observed that the Council's decision was based on what the Commission considers to be an inequitable

distribution of population between wards. The following table shows the Council's proposal, on the basis of population, the establishment and proposed entitlements to members for each ward.

Ward	Population	Statistical Entitlement	Proposed Membership
Albany	13,864	1.29	2
Birkenhead-Northcote	37,491	3.48	3
Devonport	17,507	1.63	2
East Coast Bays	37,581	3.49	3
Glenfield	28,201	2.62	3
Takapuna	37,520	3.49	3
Total	172,164	16.00	16

- 14 The Commission does not consider that this results in fair representation between wards. It provides a poor statistical fit of members per ward and has widely varying member to population ratios. These range from 1:6932 in the Albany Ward to 1:12,527 in the East Coast Bays Ward. The Commission acknowledges that each of the wards, broadly speaking, conforms with communities of interest. It was not convinced, however, that each of those wards requires separate representation. It considers that effective representation could be achieved through the 3 wards provided for in its reorganisation scheme for North Shore City. It also considers that those wards would result in fairer representation than through the ward structure proposed by the North Shore City Council.
- 15 When considering this matter in the context of making decisions on the reorganisation scheme for North Shore City the Commission stated that -

“The situation with a three ward division of the City with the membership proposed by the Commission would now be as follows -

Ward	Population	Percentage	Members
<i>Central</i>	<i>57,142</i>	<i>33.19</i>	<i>4.64</i>
<i>Northern</i>	<i>49,330</i>	<i>28.65</i>	<i>4.01</i>
<i>Harbour</i>	<i>65,692</i>	<i>38.16</i>	<i>5.34</i>
<i>Totals</i>	<i>172,164</i>	<i>100.00</i>	

“Although the above table shows a situation which could be within an acceptable tolerance, the Commission noted that there is a wide divergence between the figures for the Central and Harbour Wards, bearing in mind that each of those wards were provisionally allocated 5 members each. An analysis of the table shows that the ratios in the Commission's proposals range from 1:11,428 for the Central Ward to 1:13,162 for the Harbour Ward. The Council's proposals would have led to a ratio of councillors to

population which ranged from 1:6,500 in Albany to 1:12,500 approximately in the Takapuna and East Coast Bays Wards.

“While the Commission’s opinion is that its solution is more reflective of fairness on a strict population basis than is the Council’s, it decided to investigate further to see whether the use of other factors as allowed for in section 101L could lead to a more satisfactory answer. The “standard” additional factors mentioned in that section are area and rateable value. These were included in the Commission’s consideration, and the weightings assigned for the three factors were: population: 80; area: 10; and rateable value: 10.

“The situation was as shown in the tables on the next page.

Base Data

Ward	Pop	%age	Area. Ha..	%age	R.Val \$Mil	%age
Central	57,142	33.19	2,592	20.44	4,085	39.31
Northern	49,330	28.65	6,982	55.07	3,560	34.26
Harbour	65,692	38.16	3,105	24.49	2,746	26.43
Totals	172,164	100.00	12,679	100.00	10,391	100.00

Factors

Ward	Population 80	Area 10	Rateable Value 10	Value
Central	26.55	2.04	3.93	32.52
Northern	22.92	5.51	3.43	31.86
Harbour	30.53	2.45	2.64	35.62
Totals	80.00	10.00	10.00	100.00

Membership Spread

Ward	Factor Value	12 Members	13 Members	14 Members	15 Members	16 members
Central	32.45	3.89	4.22	4.54	4.87	5.19
Northern	31.91	3.83	4.15	4.47	4.79	5.11
Harbour	35.64	4.28	4.63	4.99	5.35	5.70

“The tables indicate that greater fairness is achieved with a membership of 15 - 5 from each ward - than is actually achieved with the Commission’s originally preferred option of 14 members. The fact that it also splits the difference between the Commission’s first preference and the Council’s submission is perhaps a happy coincidence. Given that, by this means, recognition can continue to be given to the current development of the Northern Ward, the Commission has decided that it is appropriate that the representation for the three wards of North Shore City shall be -

<i>Central Ward</i>	<i>5 members</i>
<i>Northern Ward</i>	<i>5 members</i>
<i>Harbour Ward</i>	<i><u>5 members</u></i>
<i>Total</i>	<i>15 members.</i>

“The Council, in its submission to the Commission suggested that rates revenue be used as a factor rather than rateable value. The Commission was not convinced that rates revenue is a “relevant characteristic” of the various wards. Even if it were, the Commission doubts whether it should be used instead of one of the additional characteristics or factors referred to in section 101L(3). In the event, as shown above, the Commission was able to satisfy itself that reasonable fairness of representation could be achieved using only the three matters referred to in that subsection.”

- 16 Having considered the appeals and the other information forwarded to it by the Council, the Commission holds to the views on wards and membership contained in its decisions on submissions on the draft reorganisation scheme for North Shore City (at pages 14-38). The decisions are either specifically or generally in accordance with the remedy sought by the six appeals being considered by the Commission. For those reasons therefore, the Commission upholds each of the appeals to which this determination applies.

Determination¹

- 17 Pursuant to section 101K of the Act the Commission hereby determines for the triennial general election in 1998 -
- (1) North Shore City, delineated on S.O. Plan No. 63497 deposited with the Chief Surveyor of the Auckland Land District, shall be divided into 3 wards; and
 - (2) the three wards shall be -
 - (a) the Northern Ward; comprising the area delineated on S.O. Plan No. 69284 deposited with the Chief Surveyor of the North Auckland Land District;

¹ This determination was superseded by the Local Government (North Shore City Council) Reorganisation Order 1998, Gaz 1998, p.916

- (b) the Central Ward; comprising the area delineated on S.O. Plan No. 69283 deposited with the Chief Surveyor of the North Auckland Land District; and
 - (c) the Harbour Ward, comprising the area delineated on S.O. Plan No. 69282 deposited with the Chief Surveyor of the North Auckland Land District.
- (3) The Council shall comprise a Mayor and 15 members of whom -
- (a) Five members shall be elected by the electors of the Northern Ward;
 - (b) Five members shall be elected by the electors of the Central Ward; and
 - (c) Five members shall be elected by the electors of the Harbour Ward.
- 17 As required by section 101L of the Act the boundaries of the above wards coincide with the boundaries of the current statistical meshblocks 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