

PORIRUA CITY COUNCIL

Background

- 1 The Porirua 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 election of its members prior to the local authority elections to be held in October 1998, and resolved to make some changes. Its present membership and basis of election was fixed by the Commission in 1992 when it determined appeals against the Council's proposals prior to the 1992 elections. This membership is 13, in addition to the Mayor, elected as follows -
 - (a) Titahi Bay Ward 3 members
 - (b) Cannons Creek Ward 4 members
 - (c) Tairangi Ward 2 members
 - (d) Horokiri Ward 2 members
 - (e) Plimmerton ward 2 members
- 2 The Council proposed to retain the present 5 wards, with some boundary alterations involving the transfer of parts of the Horokiri Ward to the Tairangi and Plimmerton Wards, and to reduce the total number of members of the Council to 12 by reducing representation for the Cannons Creek Ward to 3.
- 3 Ten appeals were received against the Council's proposals.

Council's consideration

- 4 An officers' report was prepared for the Council prior to it commencing consideration of its possible representation. It noted that population changes within the various wards had produced a situation where population to member ratios varied considerably; from 1:3030 in the Cannons Creek Ward to 1:4851 in the Horokiri Ward. The advice of the officers was that these variations were much larger than was desirable, and that ward representation and boundaries should be reviewed. The officers' report identified 3 main options, and also made mention of some possible variations within those options. These are now set out below:
 - (a) **Five wards and 13 members**

This is the existing situation, and, as already noted, the officers were of the view that it would be difficult to find a reasonably compatible member to population ratio. The report did note that a 3 ward division of the City would still allow the retention of the present 13 members, or as an alternative, a further reduction in the total membership of the Council.
 - (b) **Five wards and 12 members**

The officers were of the opinion that this option would provide a

division of the City with acceptable member/population ratios. Some boundary adjustments were suggested to assist in achieving an acceptable balance. The identified ratios varied between 1:3414 for the Titahi Bay Ward to 1:4251 for the Horokiri Ward.

(c) **Three wards and 10 members**

This was mentioned as a possibility, should the Council be of the view that its total membership could be further reduced. The 3 wards were identified as -

- the Northern Ward, being a combination of the Plimmerton and Horokiri Wards (with the Adventure Drive area moved from Horokiri to Tairangi);
- the Eastern Ward, being a combination of the Cannons Creek Ward and the enlarged Tairangi Ward; and
- the Western Ward, being the existing Titahi Bay Ward.

5 The advice given to the Council was that this arrangement would also produce acceptable member/population ratios. These ratios would have varied between 1:4200 for the suggested Northern Ward to 1:5122 for the suggested Western Ward.

6 The Council decided that it favoured the retention of a 5 ward division of the City, but with a reduced total membership of 12. A consequence of this decision was that the size of the Horokiri Ward would be reduced by two boundary alterations. These proposals were for -

- (a) a transfer of the Adventure Drive area of Whitby to the Tairangi Ward;
and
- (b) a transfer of the Eskdale Road area of Papakowhai to the Plimmerton Ward.

7 The required public notice of these proposals was given. In response the Council received 18 objections. Of these, 6 supported the Council's proposals. Of the 12 which did not support the Council's proposals -

- (a) six suggested there should be 12 members elected from 3 wards;
- (b) two suggested there should be 13 members elected from 3 wards;
- (c) one suggested there should be 13 members elected from 4 wards;
- (d) one suggested there should be 10 members elected from 3 wards;
- (e) one suggested that all members should be elected at large; and
- (f) one did not comment upon the proposed number of members, but did identify, and object to, the perceived continued division of what was stated to be the true Paremata community of interest (the subject of the division of communities of interest was also raised by some other objectors).

- 8 The possibility of another boundary alteration, involving the transfer of Ranui Heights from the Cannons Creek Ward to the Titahi Bay Ward was also suggested in the objections.
- 9 The Council considered the objections and resolved not to make any change to its original proposals. The 10 appeals received followed the giving of the required public notice by the Council.

Subject of appeals

- 10 The matters raised in the appeals contain a number of common threads. Their content may be summarised as follows -

(a) ***Whitby Residents Association***

- The proposed membership is inequitable for residents of Plimmerton and Horokiri;
- The decision does not take account of the wishes of the people as expressed in the objections received; and
- The transfer of the Adventure Drive area from the Horokiri to the Tairangi Ward does not recognise the true community of interest of that area.

(b) ***Mr L B Piper***

- The Council's proposals would make for overlarge variations in the member/population ratios between the various wards;
- The projected populations of the various wards should have been taken into account as a relevant factor in fixing the numbers of members to be elected by the electors of each ward;
- There was no justification for the proposed boundary alterations when greater fairness could have been achieved by combining some of the existing wards;
- The total number of members should remain at 13.

(c) ***Plimmerton Residents' Association***

- The proposed boundary alterations affecting the Horokiri, Plimmerton, and Tairangi Wards should not proceed;
- There should be a three-ward division of the City, to be achieved by -
 - * combining the Plimmerton and Horokiri Wards to form a Northern Ward;
 - * combining the Cannons Creek and Tairangi Ward to form an Eastern Ward; and
 - * renaming the Titahi Bay Ward as the Western Ward;
- The membership of the Council should remain at 13.

(d) ***R J Morrison***

- The proposed wards will not provide effective representation of communities of interest within the district; and
- The proposed ward representation will not ensure that the electors of those wards receive fair representation.

(e) ***Porirua Independents Network*** and

(f) ***Titahi Bay Residents Association***

- The process of decision-making was corrupted;
- The proposals do not meet the requirements of the Act; and
- The City should be divided into three wards with a total membership of 12.

(b) ***John Watson***

- The district should be divided into 3 wards, and the electors of each ward should elect 4 members.

(c) ***Paremata Residents Association***

- The Council's proposals would continue the splitting of the Paremata community of interest;
- The northern wards are under-represented, and the Council should use population growth trends, rateable values, and the number of electors in each ward as factors to determine the number of members from each ward; and
- The total number of councillors should remain at 13.

(d) ***Porirua Association of Residents and Ratepayers***

- The total number of councillors should remain at 13, elected by the electors of 3 wards.

(e) ***Paul Crisp***

- The total number of councillors should remain at 13, elected from 4 wards;
- The Paremata and Horokiri Wards are under-represented; and
- The current ward boundaries do not accurately reflect communities of interest.

Preliminary Matter for Determination

11 The Commission received the appeals and resolved to meet the Council and appellants in Porirua on Wednesday, 10 December.

The Hearing

12 The Council was represented by the Mayor, Mr J B Burke, with Mr Malcolm Douglas, Director of Planning in attendance.

13 Appellants who appeared were -

- The Titahi Bay Residents Association and the Porirua Independents Network, represented by Mr G A Ebbett;
- The Paremata Residents Association, represented by Mr Kincaid;
- Mr John Watson;
- Mr Paul Crisp;
- The Plimmerton Residents Association, represented by Mr Lambie;
- Mr L B Piper;
- Mr R. J. Morrison; and
- The Porirua Association of Residents and Ratepayers, represented by Mr Crisp.

The Council: Mr Burke presented and read a statement setting out the reasons for the decisions made by the Council. The main points may be summarised as follows -

- The Council considered that its proposal for 12 members elected from 5 wards, with some boundary alterations, was the most acceptable, and that it did address the population imbalance between some wards which had occurred over the previous years;
- The Council had been considering the possibility of reducing the total number of members, and had finally adopted the present proposals which would lead to a reduction of one in its membership;
- Although there was a body of opinion in the Council which favoured 3 wards, the Council had only consulted with its residents on the basis of 5 wards, so it was not possible to ascertain the level of opposition, if any, there would be to such a change, although it was thought resistance would be extensive;
- The proposal to include the Eskdale Road area in the Plimmerton Ward recognised its true community of interest; its inclusion in the Horokiri Ward was anomalous because the residents have no direct community of interest with the residents of the Horokiri Ward;
- The Adventure Drive area was in the Tairangi Ward until 1992; although the Council proposed the change to the present situation in 1992, it was now satisfied that the current proposal better reflects a boundary which is acceptable on geographic, physical location, and community of interest grounds; it was also observed by the Council that there was no objection to this proposal from any affected resident;
- The proposal to include the area of Ranui Heights in the Titahi Bay Ward was considered by the Council and rejected;
- The proposed reduction in total membership to 12 councillors would not reduce the Council's ability to carry out its functions.

14 The responses Mr Burke gave in answer to questions may be summarised as follows -

- The Council did not consider there was any need to take account of any factor other than population in determining the number of members to be elected from the various wards; even in the Horokiri Ward, there are not a large number of completely rural properties, so consideration of area as a factor would not be appropriate;

- The Council was strongly influenced toward the retention of its present 5 wards because the Commission itself did not accept the proposal made by the Council, in 1992, that the Cannons Creek and Tairangi Wards be amalgamated; however, even at that time, there had not been any proposal for the union of the Horokiri and Plimmerton Wards;
- The inclusion of the Golden Gate area of Paremata in the Plimmerton Ward would exacerbate population imbalances;
- He agreed that the great majority of new residential development was likely to continue to be in the two northern wards, and that the population of the 3 other wards had tended to decline; but the Council was of the opinion that the Housing Corporation was unlikely to allow its empty rental properties in those wards to remain vacant indefinitely; when they were retenanted, the populations of those wards would increase again;

Titahi Bay Residents Association: Before Mr Ebbett spoke to the Association's appeal and original objection, he commented upon the evidence for the Council. He stated that, in his opinion, the Council did not make its final decision solely in response to the objections it had received, but had taken account of input from other sources. The Association was of the view that the Council had not given sufficient consideration to all the possibilities for fixing representation, and in particular, had not sought to consult about the three-ward suggestion. In speaking to the Association's written material, his comments and responses to questions may be summarised as follows -

- The Association considered that in the determination of ward representation, account should have been taken of future population trends;
- The Council's decision-making process was not carried out in accordance with the requirements of the Act because some of the councillors had themselves made submissions upon the subject;
- The Council should have carried out preliminary consultation with the residents' associations within the City;
- The Adventure Drive area was in the Tairangi Ward, then it was included in the Horokiri ward, and now the Council proposed to once again include it within the boundaries of the Horokiri Ward; this suggested to the Association that community of interest was taking second place to making the populations of wards agree with a desired number of members;
- The continued decline in population of the Cannons Creek, Tairangi, and Titahi Bay Wards, and the continued growth in population of the Horokiri and Plimmerton Wards should be recognised by making future growth a factor in determining their various representations;
- The Association had not had the opportunity to consider what weightings should be given to the various factors;
- If population trends were a factor, it would be possible to estimate appropriate representation in between Censuses;
- It would be better to have 3 large wards because this arrangement would tend to even out anomalies;
- It would also be better to have homeowners and tenants in different wards.

Porirua Independents Network: Mr Ebbett said that the Network was formed after the last elections. It was a small group, with an invited membership, which had the aim of fostering independent participation in local government. He said that, while still basing his presentation on the original appeal and objection documents, he wished to emphasise some different aspects. His comments and responses to questions may be summarised as follows -

- The provisions of section 10 1 L(3) require that the number of members to be elected from each ward will ensure that the electors of the ward receive fair representation; this would most easily be achieved if the number of electors in each ward were to be a relevant factor; he produced some figures showing that if this factor were used instead of population, a different representation pattern would emerge;
- He said that it was not possible to be absolutely certain about the effects of change because he had not been able to ascertain the number of electors in the areas affected by the proposed boundary alterations;
- Although there were a number of different communities of interest within the City, he did not consider that each needed separate representation; for example his group considered that the Plimmerton and Horokiri people could be satisfactorily included within a single ward; and
- The City was best divided into wards for electoral purposes; and he did not think that Polynesian residents would be satisfactorily represented if members were elected at large.

Paremata Residents Association: Mr Kinraid read a new submission. This together with his responses to questions, may be summarised as follows -

- There has been some form of a residents' association in Paremata since at least the early 60's; and it has always included Mana and Golden Gate within its area;
- The area covered by the Association, which is considered to be the Paremata community of interest, is currently divided between two wards, and still would be even if the Council's proposed ward boundary changes were to proceed;
- The residents of Golden Gate have more in common with the residents of Plimmerton than with the residents of Whitby; still, the Association was not against the joining of the Horokiri and Plimmerton Wards, to the extent that it first proposed that the City be divided into only 3 wards, and would still accept this position;
- The Council was not required to consider only population when determining fair representation for the various wards of the City; it could make use of other factors;
- Considered that the number of electors in a ward should be taken into account, this was a more relevant factor than just the population; and the use of such a factor would give a more fair result (produced a graph to illustrate this point);
- The rateable values of the various areas and the projected growth of their populations should also be taken into account as factors in the determination of the appropriate number of members to represent each of the wards;

- The residents of the Plimmerton and Horokiri Wards are paying the highest rates in the City, therefore they should also have the greatest say in how those rates are spent;
- Was of the view that there was not adequate consultation by the Council with its residents before the electoral proposals were formulated;
- Did not believe that the proposed reduction in total membership to 12 would improve representation.

Mr J Watson read a new submission. This, together with his response to questions, may be summarised as follows -

- Considered that the Council's proposals were the result of the present members' attempts to retain their power base;
- Not against the intrusion of party politics into the Council but believed the tactics of the present ruling group were preventing proper representation of the City's true electorate;
- Noted that some councillors submitted submissions in support of the Council's proposals and then voted on those proposals; in his view this was a case of members voting while interested, and should not have been allowed;
- Produced figures which he said showed that it is easier to be elected from the Cannons Creek and Tairangi Wards than from the other wards, because the total numbers of votes received by successful candidates in the named wards were less than for successful candidates in those other wards;
- He said that the 7 Labour members of the Council were elected with only 29% of the total votes cast; his view was that every councillor in every ward who is elected should receive about the same number of votes;
- While the 3 ward division proposed by other appellants would be better than the present situation, he believed that the best regime would be no wards and 10 councillors;
- He noted that, despite comprising over 46% of the population in the Cannon's Creek Ward, there was neither a Maori nor a Samoan member elected from the Ward;
- Produced a copy of a letter from the Minister of Local Government which discussed the requirement in section 101L(3) that the electors of a ward were required to have fair representation, but that the principal factor to be used was the ward's population; in that letter the Minister stated that population was merely one factor among others in any consideration of fair representation;
- Dissatisfaction with the Council's proposals seemed to have all come from outside the Cannons Creek and Tairangi Wards.

Mr Paul Crisp spoke to his original appeal document. His additional comments, together with his response to questions, may be summarised as follows -

- He was a candidate for the Council in 1995;
- Whilst he favoured a 3 ward system for the City, he supported a 4 ward proposal because he did not think the Commission would be persuaded that 3 wards were appropriate;
- A local authority needs more members than a company needs directors; and it is not uncommon for a company to have 10-12 directors;
- The Council's decision to reduce its membership was not suggested by any citizens of the district;
- In deciding upon membership, the Council ignored the growth in Papakowhai and Whitby;
- The Commission was asked to give a significant weighting to other factors, and, in particular, rateable value;
- If a + or -10% variation for population were used now, it would not be necessary to take account of the population projections to 2001 when fixing the wards and representation next time;
- Would prefer that each ward elect no less than 3 members, that way there would be a good coverage of the various committees of the Council;
- His original 4 ward proposal was an attempt to recognise the Paremata community of interest; and
- Pauatahanui has more of a community of interest with Plimmerton and Paremata than it has with Whitby.

Plimmerton Residents Association: Mr Lambie spoke to the original appeal document. His other comments and responses to questions may be summarised as follows -

- Statistical meshblocks do not recognise communities of interest;
- A 3 ward division of the City would be much more satisfactory than the Council's 5 ward proposal;
- The number of members to be elected from the wards is not too critical; but would not like to see the numbers reduced below a total of 10;
- On balance preferred ward elections to an election over the whole city.

Mr Piper: Presented and spoke to a new submission. This together with his responses to questions, may be summarised as follows -

- The officer's report to the Council indicated that a 3 ward division of the City would produce more fairness as between the people in the various wards;
- Three large wards would not sever existing communities of interest;
- The Council should have carried out extensive consultation with its citizens before commencing the formal review;
- The councillor/population ratios in the Council's proposals varied too widely to be acceptable in accordance with the legislation;

- The present imbalance between the wards would worsen in the next year or so if the population changes in line with the projections;
- The number of eligible voters in the wards should be used rather than the straight populations; this is because section 101L(3) of the Act required that the number of members to be elected from each ward shall ensure that the electors of those wards will receive fair representation; suggested that this requirement is incompatible with the use of the whole population, because the latter would include children too young to vote;
- Some form of weighting should be used; suggested population 60%: capital value 30%: and area 10% (**note:** his submission suggested that these were weightings used in the past by the Commission: In fact the only occasion where this weighting has been used in a district, to the Commission's knowledge, has been by the Hastings District Council; the Commission accepted its use there because of the issues which had arisen in respect of the demographic and geographic nature of that District);
- The present wards do not reflect the current communities of interest within the City; in particular in the northern wards;
- The Council did not advance any good reason for reducing its total number of members to 12; he had demonstrated that fair representation could be achieved with total numbers of either 12 or 13, depending upon where the boundaries were fixed; and 9 members could give fair representation if there were 3 wards;
- Election over the whole district may have community support if members were elected by the STV system.

Mr Morrison: Mr Morrison read his appeal document. His additional comments and answers to questions may be summarised as follows -

- He has been a life-long resident of Golden Gate, and has always regarded himself as living in Paremata;
- For this reason, he was concerned about the continuing division of the Paremata community of interest;
- supported the concept of using the numbers of electors in each ward as a factor in determining fair representation;
- Did not agree with a suggestion that it could be appropriate to use the total population because the electors within a ward may be said to represent the views of all electors; he believed that this could be considered presumptuous; and
- He still believed the best division of the City for electoral purposes would be 5 wards, and produced a paper showing some new calculations which used estimated numbers of electors as a factor.

Porirua Assoc. of Residents and Ratepayers: Mr Crisp spoke for the Association. His comments and responses to questions may be summarised as follows -

- The Association is an umbrella organisation comprising members of the ratepayer organisations within the City;

- The Association, which had originally sought the election of 12 members from 3 wards, now requested 13 members from the 3 wards, divided as follows -
 - * Northern Ward 5 members
 - * Eastern Ward 5 members
 - * Western Ward 3 members.

- This division would, in the Association's opinion, be more satisfactory when taking account of the populations of the wards; a 12 member, 3 ward division would require the inclusion of Ranui Heights in the Western Ward.

Porirua City Council in reply: Mr Burke made a number of responses to points raised by the appellants. These may be summarised as follows -

- It was conceded that the Council did not embark upon a programme of public consultation before considering membership and the basis of election;
- However, of two authorities within the Wellington Region which did, he noted that -
 - * The Hutt City Council was giving consideration to constituting communities for the whole of Lower Hutt; and
 - * The Wellington City Council also considered that it had major representation issues to accommodate;
 - * In contrast, his Council was of the view that the issues in Porirua were different and not so complex;

- Although some councillors made submissions in support of the Council's proposals, they were still entitled to vote in favour of the Council's final resolution;
- Members were aware of, and considered population trends when the Council was formulating its proposals; believed that the projections of continued population decline for both Cannons Creek and Titahi Bay would not prove accurate because the 1996 Census was conducted at about the bottom of a cycle of decline;
- The Council considered communities of interest in its proposals, and had got it about right;
- The Porirua Independents Network has a political agenda;
- Mr Watson, in commenting upon the differing numbers of votes needed to be successful in the various wards, did not take into account the larger number of young people in wards such as Cannons Creek who, while increasing the total population of that ward, were not yet eligible to be voters; therefore it is likely there would be fewer electors in that ward;
- It would not be appropriate to consider electors instead of the total population when allocating ward membership; the Council was required to act for all the residents of the City, whether or not they were old enough to vote;

- The only relevant factor in Porirua City was its population; it was not necessary to consider area or rateable values when seeking to achieve fair representation;
- Even if the Commission should be attracted to the idea of dividing the City into 3 wards, this should not proceed without first consulting extensively with the people of Porirua; and
- Mr Douglass produced background information on planning issues which had been referred to in the evidence.

16 At the conclusion of the Council's response, the Chairman said that the Commission reserved its decision, and declared the meeting closed.

Matters for Determination

17 The legislation relating to the determination of appeals and counter-objections, is contained in sections 101K and 101L(2) and (3) of the Act. Section 101K(1) provides as follows -

" (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, "*

18 Section 101L(2) and (3) provides as follows -

" (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.

- 19 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,
- the only criterion to be met within the terms of section 101L(2) of the Act is the provision of effective representation for the various communities of interest within the district. This can be achieved by any ward encompassing one or more communities of interest.
- 20 The Commission further considers that, when fixing 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 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. 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.
- 21 The Commission was satisfied, both from its own knowledge of the City and by the evidence presented to it, that it is appropriate to divide Porirua into wards for electoral purposes in order that the various communities of interest within the City may be provided with effective representation. The Commission's committee was of the same view in its determination in 1992. However, the Commission notes that this time the emphasis upon the appropriateness of ward boundaries has changed. This undoubtedly follows from the continued evolution of the City in the six years since 1992.
- 22 The Council itself had sought to take account of what it perceived as the communities of interest in parts of the City with its proposals to exclude some areas from the Horokiri Ward and include them in the Plimmerton Ward, in respect of the Eskdale Road area of Papakowhai; and the Tairangi Ward in respect of the Adventure Drive area.
- 23 Some of the objectors, and the appellants generally, argued that the Council's proposals still did not give the best ward division to provide effective representation for the City's communities of interest. Some argued for 4 wards, while others supported a 3 ward division of the city.

24 The Commission noted that the officers' report prepared for the Council in June 1997 made the following comment about a 3 ward division.

"The relatively large wards in a 3 ward system reflect strong communities of geographic, social, and historic interest. It is clear that there are sub-communities of interest even within the present 5 wards. Titahi Bay, for example, comprises different sub-communities. It can be argued that, in a 3 ward system, members from a northern ward could effectively represent views of communities within Plimmerton and Horikiri, just as Tairangi and Cannons Creek communities could be effectively represented in Council by Eastern Ward members. "

25 Mr Morrison, in his evidence, made a strong point in relation to the Council's proposals. He stated that Golden Gate, where he lives, has its community of interest with Paremata but, being within the Horikiri Ward, is separated from the rest of its community of interest which is contained within the Plimmerton Ward.

26 The Commission was satisfied that this separation could be satisfactorily overcome by combining the Plimmerton and Horikiri Wards, as sought by the appellants, and also as suggested as one option in the report from the Council's officers. There is already significant intermingling and blurring of the boundaries of these two wards in the Papakowhai area, even after taking account of the boundary alteration between the two wards proposed by the Council. In addition, there are significant areas of rural and rural residential land within the Plimmerton Ward and the Horikiri Ward. After due consideration, the Commission came to the view that the several communities of interest within the Plimmerton and Horikiri Wards did not need to remain in separate wards in order to provide for their effective representation. On those grounds, the Commission was satisfied that it is appropriate to combine those two wards and upholds those appeals which sought this.

27 The Commission then gave consideration to the Council's proposal that the Adventure Drive area of Whitby should become part of the Tairangi Ward. The Commission noted that this area has had a somewhat chequered history. Up to 1992, it was part of the Tairangi Ward. Then, on the motion of the Council, subsequently confirmed by the Commission, it was included within the Horikiri Ward on the grounds that it had more community of interest with Whitby than with Porirua East. The Council, in its evidence stated, that, following some reconsideration, its opinion now was that it should again become part of the Tairangi Ward.

28 The Commission agrees that this is one area where community of interest could be said to be divided. The dividing line between Waitangirua and Whitby at this point is not marked. But neither is the dividing line between Adventure Drive and the rest of Whitby wholly clear. On balance, the Commission was not entirely satisfied that the community of interest of the residents of Adventure Drive would be more effectively represented within the Tairangi Ward than it currently is as part of the Horikiri Ward. Therefore it upholds the appeals seeking to retain the existing situation and maintain Adventure Drive as part of the new Northern Ward grouping.

- 29 The Commission was reminded that, in 1992, its committee did not agree with the Council's proposal to combine the Cannons Creek and Tairangi Wards. The Commission is satisfied that its committee's reason was its concern that a ward whose members comprised almost half the total number on the Council, could have a prejudicial effect upon the effectiveness of representation from the other wards in the City. The Commission does not believe its committee was opposed to the concept of a merger of the two wards per se. The Commission, having decided to uphold the appeals seeking the union of the Plimmerton and Horikiri Wards, is satisfied that any concern about the possibility of domination from the number of members to be elected from a combined Cannons Creek and Tairangi Ward no longer exists. The Commission notes that the communities of interest of the residents of the Cannons Creek and Tairangi Wards have a number of similarities. For example, the wards contain a very large proportion of the City's Polynesian population, and of its low-cost housing. Although Cannons Creek and Tairangi also have many features in common with Titahi Bay, the clear separation of the latter, as discussed below, does not lead to any suggestion that it be joined with the other two wards. Therefore the Commission holds that combining the Cannons Creek and Tairangi Wards would still provide the electors of those wards with effective representation.
- 30 The remaining ward is the Titahi Bay Ward. The only issue which was raised in connection with that ward was a suggestion that it could be enlarged by extending its boundaries to include Ranui Heights. The Commission saw little merit in this suggestion. Ranui Heights is separated from the Titahi Bay Ward by State Highway 1 and the North Island main trunk railway. Furthermore, that part of the Titahi Bay Ward which adjoins these major transport arteries is the commercial and industrial area of the city. The Ranui heights residential area could not be said to have any more community of interest with the centre of the city than any other part of the city. The boundary between the two wards then is particularly clear at this point. For these reasons, the Commission does not uphold appeals seeking this boundary alteration.
- 31 As to the names of the wards, the officers' report suggested that the combined Horikiri and Plimmerton Wards be called the Northern Ward, the combined Cannons Creek and Tairangi Wards the Eastern Ward, and the Titahi Bay Ward the Western Ward. This renaming was also taken up by a number of the appellants. The Commission accepted these names as being fairly descriptive of the areas included and therefore has adopted them.
- 32 The Council suggested that the proposal for a 3 ward division should not be adopted by the Commission because it had not been advertised by the Council as an option and therefore, presumably, not discussed widely. With respect, the Commission disagreed with that viewpoint. The option of a 3 ward division of the City was discussed in the officers' report. It was obviously sufficiently broadcast throughout the City for a number of objectors and appellants to raise it as their preferred option. It also provided one means of overcoming the perceived difficulty with the severance of the Paremata community of interest as raised in the appeals.

33 There may be other divisions of the City which would provide even more effective representation of the various communities of interest, but these were not raised with the Commission, and the Commission was not able, in the time available with its current resources, to carry out the detailed investigation necessary to verify other, perhaps more radical, solutions.

34 Having determined an appropriate division of the City for electoral purposes, the Commission then considered the number of members which should be elected from each ward so that, as far as possible, it could ensure that the electors of those wards would receive fair representation. As it believes it was required to do by the wording of section 101L(3) of the Act, the Commission first gave its attention to the populations of those three wards. For the purposes of comparison the commission considered a total membership of between 10 and 13. The results are as indicated in the following table.

Wards	Population	10	11	12	13
Northern	17,526	3.76	4.13	4.51	4.89
Eastern	18,857	4.04	4.45	4.85	4.26
Western	10,243	2.20	2.42	2.64	2.86
Totals	46,626	10	11	12	13

35 As will be noted, the closest correlations are with memberships of 10 and 13. Although, on a strict mathematical basis, 10 members would be an achievable number while maintaining fairness, the Commission is not satisfied that such a number would be appropriate for Porirua City. Therefore, although the Council had proposed a reduction in its membership to a total of 12, the Commission considers that fairness between the electors of the various wards requires that the membership remain at a total of 13, and the appeals seeking the retention of this number of members are therefore upheld.

36 One result of this decision is that the number of members to be elected by the electors of the Northern Ward will increase by one while the number of members to be elected by the electors of the Eastern Ward will reduce by one. This is a manifestation of the continued increase of the populations in the northern wards together with the decrease in the populations of the other two wards in the City. Whether this change in the balance of population within the City is permanent or whether it will be reversed, only time will tell. Should the empty houses within the Western and Eastern Wards be reoccupied, the populations of those wards will once again increase. An adjustment to membership could then be appropriate at the review to be carried out prior to the 2001 triennial elections.

37 A number of the appellants considered that the number of electors within each ward should be considered as a factor for fixing the number of members to be elected from those wards. The argument advanced was that, as it was electors who are required to receive fair representation, it should be they who are counted. While the Commission agrees that electors are to be, as it were, the beneficiaries of the fair representation, the Act is quite clear in stating that, in the first instance, this shall be achieved by having regard to the population of the ward. It is only where the circumstances require that regard be given to other factors, that consideration could perhaps include the number of electors in addition to

any other aspects which may happen to be special characteristics of a particular ward. In this case the Commission considered that fair representation was achievable by having regard to population alone, and therefore there was not need to have regard to any other factors.

Determination

- 38 Pursuant to section 101K of the Act the Commission determines that for the triennial general election in 1998:
- (1) Porirua City as delineated on S.O. Plan 35967 deposited with the Chief Surveyor of the Wellington Land District shall be divided into 3 wards:
 - (2) Those 3 wards shall be:
 - (a) the Northern Ward, comprising the area delineated on S.O. Plan No. 37881 deposited with the Chief Surveyor of the Wellington Land District:
 - (b) the Eastern Ward, comprising the area delineated on S.O. Plan No. 37882 deposited with the Chief Surveyor of the Wellington Land District:
 - (c) the Western Ward, comprising the area delineated on S.O. Plan No. 37895 deposited with the Chief Surveyor of the Wellington Land District.
 - (3) The Council shall comprise a Mayor and 13 members of whom:
 - (a) 5 members shall be elected by the electors of the Northern Ward; and
 - (b) 5 members shall be elected by the electors of the Eastern Ward; and
 - (c) 3 members shall be elected by the electors of the Western Ward.
- 39 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 the Statistics New Zealand and used for Parliamentary electoral purposes.
- 40 As required by section 101M(3) of the Act, plans of all wards have been sent to the Chief Surveyor of the Wellington District, and the Chief Surveyor has certified that those plans are sufficient to render the boundaries of the wards capable of identification.

The Local Government Commission

Ian Lawrence (Chairman)
Barbara Durbin (Member)
Robin Wilkins (Member)
27 March 1998