



## LOCAL GOVERNMENT COMMISSION

# Determination

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

#### BACKGROUND

- 1 The Rotorua 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, and resolved to make no changes.
- 2 The Rotorua District Council elected at the 1998 general election comprises 12 members and the Mayor. The 12 members were elected as follows:

North Ward	3 members
South Ward	3 members
East Ward	3 members
West Ward	3 members
- 3 Mr John Cole was the sole objector to the Council’s proposal.
- 4 The subject matter of his objection may be summarised as follows:
  - the Council’s operational performance has been poor, and the Council lacks accountability - these faults relate back to the present electoral system;
  - the present system has an adverse effect upon the residents of small communities such as Mamaku;
  - the District should be divided into 12 wards, each with a single member;
  - voters in Mamaku are overwhelmed by the voters in the rest of the ward;
  - the condition of the infrastructure of Mamaku is a disgrace; and

- a dynamic change, such as he suggested, would get Rotorua growing again.
- 5 Following consideration of the objection, the Council confirmed its original proposal. Mr Cole appealed against the Council's decision.

### **Subject Matter of Appeal**

- 6 The content of Mr Cole's appeal may be summarised as follows:
- the District should be divided into 12 wards, each electing a single member, with the Mayor to be elected from their number by the successful councillors;
  - the vacancy created by the election of the Mayor to be filled by the next highest polling candidate for the ward from which the Mayor came;
  - the present ward system means that the urban areas get the representation while the rural ratepayers pay the greatest rates; and
  - because of the present system, rural residents are considering joining other Districts.

### **Preliminary Matter for Determination**

- 7 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. The Commission resolved to meet the Council and the appellant in Rotorua on 28 November 2000.

### **The Hearing**

- 8 The Council was represented by the Mayor (Mr G W Hall), the District Manager (Mr A E Hansen), and the Manager Administration (Mr G M Sands). Mr Cole was present.

*The Council:* The Mayor spoke to a submission in support of the Council's decision to make no changes to the present electoral system. The submission, additional comment by the Mayor and the officers, and replies to questions may be summarised as follows:

- there was always good attendance of members at meetings in the rural parts of the District;
- there had been a great deal of consideration given to whether to change the wards, or to abolish wards entirely, but rural ratepayer groups and Federated Farmers supported the retention of the present system;
- the present ward boundaries are considered to be appropriate, and have been confirmed after extensive public consultation;
- while the Council is aware that various groups have had discussions with neighbouring authorities, other people in those localities have stated that they are satisfied with the level of local government services provided;

- the Council is of the view that there is a high level of acceptance in the District of the wards and that their boundaries are correctly defined, based on communities of interest, and have been accepted since they were established in 1989; and
- although some change to the Eastern Ward was possibly justified, the flow-on balancing of populations would have required changes to all the wards, with little, if any improvement to the effectiveness of representation.

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

- the Council's performance has declined;
- considers that the Council did not give his objection serious consideration because it only spent about two minutes discussing it;
- his proposal to have the Mayor elected by the councillors, and the District divided into 12 wards would improve accountability (at this stage the Chairman advised Mr Cole that the Act required that a mayor be elected by the electors, and therefore his appeal could not be upheld on this point);
- the present ward system favours urban electors because they greatly outnumber the rural electors in each ward;
- the administration of Mamaku Village was cited as an example because, he stated, meetings there, even when attended by the Mayor, the ward members, and the District Manager, fail to achieve any results, and submissions to the Annual Plan do not receive a reply;
- if there is no change to the present system, the Commission may be required, in the near future, to consider requests for boundary alterations with other Districts;
- his drawing of the 12 wards covering the District was indicative only, he had not done any detailed work to identify the boundaries of specific communities of interest;
- he arrived at 12 wards because that is the present number of councillors; and
- he believes that a person from a rural area has little chance of being elected.

**The Council in reply:** Comments on behalf of the Council may be summarised as follows:

- Mr Cole's was the only objection and appeal received, and this indicates that there is no demand for any change;
- there was widespread opportunity for public input prior to the formal process, and the Council took account of the public's wish to retain the ward system; and
- despite Mr Cole's comments, one of the councillors is from Mamaku.

## MATTERS FOR DETERMINATION

- 9 The statutory provisions in respect of these appeals are contained in sections 101K and 101L of the Act. Section 101K(1) states:
- “(1) *The Commission shall, before the 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.”*
- 10 The relevant provisions of section 101L are subsections (2) and (3) which state:
- “(2) *In determining whether the council is to be elected by the electors of the district as a whole or by the electors of two or more wards and in determining (where necessary) the number and boundaries of wards, the territorial authority and, where appropriate, the Commission shall ensure-*
- (a) *That the election of members of the council by the electors of the district as a whole or by the electors of the 2 or more wards whose number and boundaries are determined will provide effective representation of communities of interest within the district; and*
  - (b) *That ward boundaries coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes; and*
  - (c) *That, so far as is practicable, ward boundaries coincide with community boundaries.*
- “(3) *In determining the number of members to be elected by the electors of any constituency or ward, the council and, where appropriate, the Commission shall ensure that the electors of the constituency or ward receive fair representation having regard to the population of every constituency or ward within the region or district and, if the circumstances so require, the rateable values, areas, or other relevant characteristics of the various constituencies or wards.”*

## Consideration by the Commission

- 11 The Commission considers that when deciding:
- (a) whether the election of the members of a council (other than the Mayor) be by the electors of the whole district or on a ward basis; and
  - (b) if on a ward basis, the number and boundaries of the wards,
- the only criterion to be met within the terms of section 101L(2) is the provision of effective representation of the various communities of interest within the district. This can be achieved by any ward encompassing one or more communities of interest. What the Commission has to do then is determine which communities of interest or groupings of communities of interest require representation.
- 12 The Commission further considers that when deciding on the number of councillors to be elected by the electors of any ward, the sole criterion to be met under section 101L(3) is the provision of fair representation for the electors of the various wards within the district. In deciding this fairness of representation, the Commission must have regard primarily to population, but if this factor alone does not, in the opinion of the Commission, achieve fairness, then regard should be given to rateable value and area or other relevant characteristics of the various wards. In the opinion of the Commission, population must constitute the predominant factor, but if other factors are applied, different weightings can be applied to 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 that can be achieved on the basis of the factors required to be taken into account under the provisions of the Act. In the end though, the final decision must be that which the Commission considers will, after having regard to the various factors set out in the Act, provide the fairest representation on balance for the electors of each ward.
- 13 In the Commission's opinion, its first responsibility, which also applied to the Council, was to decide whether or not the District should be divided into wards, and if so the number and boundaries of those wards to provide effective representation of communities of interest within the District.
- 14 The Rotorua District is a large and diverse area. It contains a diversity of geographical characteristics, including land types, a large urban area, rural farming areas and large areas devoted to forestry. The Commission 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 Commission noted that both the Council and the appellant sought a ward system for electoral purposes. The Commission considers that, in a district of the nature of Rotorua, with a single

large urban centre and a substantial rural area, a ward system is always likely to be necessary in order to ensure effective representation for rural residents.

### **Appropriate Ward System**

- 15 Having decided that the basis of election would be the ward system, the Commission then had to consider the number and boundaries of wards necessary to ensure the effective representation of the various communities of interest in the District. The Commission 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.
- 16 The Commission emphasises that wards are for electoral purposes only, and that the Council is the entity to which members are elected.
- 17 In the Commission's view, where it is appropriate for a district to be divided into wards, there should be such number as is necessary and consistent with the concept of effective representation of various communities of interest.
- 18 The Council has proposed that the District be divided into four wards, which would remain based on those determined by the Local Government Commission in its 1989 reorganisation scheme constituting the District. The Council considers that the proposed structure gives effective representation to the distinct communities of interest within the District.
- 19 The appellant argued that the differentiation of the District in terms of urban and rural areas is not recognised by the present ward system, and therefore rural communities do not receive effective representation.
- 20 The appellant seeks the division of the District into 12 wards, but has not identified specific communities or the boundaries of those communities. He suggested 12 wards solely to achieve single member wards.
- 21 The Commission acknowledges the concern of the appellant that the existing wards of the District do not effectively differentiate between the urban and rural areas of the District, and considers that the Council should have explored alternative ward options as part of its review. However, in the absence of a groundswell for change, the Commission considers that the existing wards should be retained for the forthcoming elections because they better reflect, although far from the ideal, the communities of interest in the District when compared to the concept of 12 wards proposed by the appellant.
- 22 The 12 ward proposal of the appellant lacked any detail which would enable the Commission to satisfy itself with regard to community of interest considerations from which wards are derived. The Commission is of the view that a division of

the District into twelve wards would inevitably split communities of interest and would not provide for effective representation, and thus would not meet the requirements of the Act.

- 23 The Commission considers that the Council, in undertaking its next statutory review, should explore alternative models of representation that better reflect the urban and rural diversity of the District.

### **Number of Members**

- 24 Having decided that there will continue to be 4 wards, the Commission was then required to determine what would be fair representation for the electors of the various wards.
- 25 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.
- 26 In accordance with this requirement the Commission considered the populations of the four wards and the percentage of the total population of each ward. The results are set out below.

<b>Ward</b>	<b>Population</b>	<b>Percentage</b>
North	16023	24.85
East	15519	24.07
South	16266	25.23
West	16668	25.85
<b>TOTAL</b>	<b>64476</b>	<b>100.00</b>

- 27 As can be seen, the difference between the Ward with the largest population, West, and that with the smallest population, East, is 1149 or 1.78%. In the Commission's opinion this difference is sufficiently small to justify the retention of equality of representation as between the various wards.
- 28 Given this result, the Commission did not consider it necessary to give consideration to applying factors of rateable land value and area, in addition to that of population. The Commission considered that fairness of representation could be achieved by taking account of population alone.
- 29 Having considered all aspects of the matter of representation, the Commission has concluded that a total membership of the Council of 12 members and the Mayor, is not inappropriate taking into account the size and nature of the District. Therefore the Council's proposals are confirmed, subject to the Commission's

comments in paragraphs 21 and 23 above.

- 30 The appeal seeking that the Mayor be elected by the members of the Council is rejected on the grounds that the Act makes no provision for such a procedure.

## **DETERMINATION**

- 31 Under section 101K of the Act, the Commission determines that for the general election of the Council to be held on 13 October 2001 -

- (1) The Rotorua District as delineated on S.O. Plan No. 58044 deposited with the Chief Surveyor of the South Auckland Land District, shall be divided into 4 wards;
- (2) Those 4 wards shall be -
  - (a) The North Ward, comprising the area delineated on S.O. Plan No. 58045 deposited with the Chief Surveyor of the South Auckland Land District:
  - (b) The East Ward, comprising the area delineated on S.O. Plan No. 58047 deposited with the Chief Surveyor of the South Auckland Land District:
  - (c) The South Ward, comprising the area delineated on S.O. Plan No. 58048 deposited with the Chief Surveyor of the South Auckland Land District:
  - (d) The West Ward, comprising the area delineated on S.O. Plan No. 58046 deposited with the Chief Surveyor of the South Auckland Land District;
- (3) The Council shall comprise the Mayor and 12 members who shall be elected as follows -
  - (a) three members who shall be elected by the electors of the North Ward;
  - (b) three members who shall be elected by the electors of the East Ward;
  - (c) three members who shall be elected by the electors of the South Ward; and
  - (d) three members who shall be elected by the electors of the West Ward.

- 32 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 LOCAL GOVERNMENT COMMISSION**

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

27 March 2001