



LOCAL GOVERNMENT COMMISSION

Determination

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

BACKGROUND

- 1 The Tasman District Council (hereafter referred to as “the Council”), as required by section 101H of the Local Government Act 1974 (hereafter referred to as “the Act”), considered its membership and the basis of the election of the Council to apply for the general election of the Council to be held in October 2001.
- 2 The Tasman District Council elected at the 1998 general election comprises 13 members and the Mayor. The 13 members were elected as follows:

| | |
|----------------------|-----------|
| Lakes/Murchison Ward | 2 members |
| Moutere/Waimea Ward | 3 members |
| Richmond Ward | 3 members |
| Motueka Ward | 3 members |
| Golden Bay Ward | 2 members |
- 3 Following its review, the Council proposed to retain its current system of wards and membership.
- 4 The Council received three objections to its proposal. The objections were from:
 - Barbara Heaton;
 - Norman Moore; and
 - Michael Higgins.

Barbara Heaton sought the amalgamation of the Lakes/Murchison Ward and the Waimea/Moutere Ward to form a new ward electing 4 members. As an alternative option she proposed elections at large.

Norman Moore considered that the Council's decision did not reflect the need for fair and effective representation and sought the amalgamation of the Lakes/Murchison and Moutere/Waimea Wards and the election of a total of 12 Councillors.

Michael Higgins considered that adjustments to the boundaries of the Lakes/Murchison Ward and the Moutere/Waimea Ward would be a means of achieving fairer representation between wards.

- 5 Following consideration of the objections, the Council confirmed its original proposal. The three objectors each appealed the Council's decision based on the matters raised in their objections.

Preliminary Matter for Determination

- 6 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 appellants if they wished to be heard. It also resolved, under clause 2 of Schedule 3A of the Act, to appoint a committee (hereafter referred to as "the Committee"), comprising the Commission's Chairman (Sir Ross Jansen) and Commissioner Durbin to hear, consider and determine the appeals. The Committee resolved to meet the Council and the appellants in Nelson on 11 December 2000.

The Hearing

- 7 The Council was represented by the Mayor (John Hurley), the Chief Executive Officer (Bob Dickinson) and the Administration Supervisor (Peter Fowler). Each of the appellants appeared before the Commission.

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

- the subcommittee, established to make recommendations to the Council, recommended the amalgamation of the Lakes/Murchison and Moutere/Waimea Wards and the provision of twelve Councillors elected as follows:

| | |
|-----------------------|------------|
| Golden Bay Ward | 2 members |
| Waimea/Murchison Ward | 4 members |
| Motueka Ward | 3 members |
| Richmond Ward | 3 members; |
- after consideration of the subcommittee's recommendations the Council decided to retain the current electoral arrangements for the following reasons:
 - wards should be retained because it is important to preserve local representation

- the recommendation to combine the Lakes/Murchison and Moutere/Waimea Wards, and having four Councillors in a single enlarged ward, was rejected because it would reduce the rural representation on the Council and be difficult to service by the ward Councillors because of its large area

- preserving the current level of representation in the rural areas is considered to be important;

- the Council rejected the objections for the same reasons as its initial decision;
- the Lakes/Murchison Ward is difficult to service because of its size - it contains 53% of the area of the District but is the least populated ward; and
- the Council acknowledges that its weighted formula does not indicate two members for the Lakes/Murchison Ward, but considers that the ward requires two members because of the large travel distances involved.

Michael Higgins addressed his appeal. His comments and replies to questions may be summarised as follows:

- bias has been created against the Lakes/Murchison Ward;
- resource management issues before the Council principally affect urban areas, and therefore there is no case for greater representation in terms of population for the rural areas; and
- the Moutere/Waimea Ward will grow rapidly due to its coastal aspect.

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

- the increasing disparity in the councillor representation between wards has been a concern for some years;
- the current situation does not reflect the primary need for fair and effective representation;
- with 55% of the population of the District living in the wards of Richmond and Moutere/Waimea a solution to the problem would be to abolish the Lakes/Murchison Ward and to allocate an additional councillor to those two fast developing areas;
- a four ward Council could provide a fairer and more equitable ratio to population; and
- alternatively, the Council could be elected by the electors of the District as a whole.

Barbara Heaton addressed her submission. Her comments may be summarised as follows:

- representation should be fair;
- Ms Heaton is not comfortable with the weightings of 80% population, 10% rateable value and 10% area applied by the Council; and
- the ward system should be abolished.

The Council in reply: The Mayor commented that changing boundaries to provide for population movements is an ongoing exercise.

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 The Commission further considers that when deciding on the number of councillors to be elected by the electors of any ward, the sole criterion to be met under section 101L(3) is the provision of fair representation for the electors of the various wards within the district. In deciding this fairness of representation, the Commission must have regard primarily to population, but if this factor alone does not, in the opinion of the Commission, achieve fairness then regard should be given to rateable value and area or other relevant characteristics of the various wards. In the opinion of the Commission, population must constitute the predominant factor, but if other factors are applied, different weightings can be applied to all factors as are appropriate in any given circumstances. The Commission does not consider that any particular formula must be applied and consequently, any mathematical calculation should be seen only as a guide to a level of fairness which can be achieved on the basis of the factors required to be taken into account under the provisions of the Act. In the end though, the final decision must be that which the Commission considers will, after having regard to the various criteria set out in the Act, provide the fairest representation on balance for the electors of each ward.

12 In the Committee's opinion, its first responsibility, which also applied to the Council, was to decide whether or not the District should be divided into wards, and if so the number and boundaries of those wards to provide effective representation of communities of interest within the District.

- 13 The Tasman District is a large and diverse area. It contains a diversity of geographical characteristics, a mix of townships, rural farming areas and the developing urban area of Richmond. The Committee came to the view that because of the size and diversity of the District, effective representation of the various communities of interest could only be achieved at this time by councillors being elected on a ward basis.
- 14 In reaching its decision, the Committee noted that two of the appellants proposed elections at large. The Committee took the view that given the geographical characteristics of the District, an election of members of the Council across the whole of the District would not provide effective representation for communities of interest at this time.

Appropriate Ward System

- 15 Having decided that the basis of election would be the ward system, the Committee then had to consider the number and boundaries of wards necessary to ensure the effective representation of the various communities of interest in the District. The Committee does not consider that section 101L envisages that individual communities of interest need separate representation. Its sole requirement in this regard is that the representation of communities of interest must be effective.
- 16 The Committee emphasises that wards are for electoral purposes only, and that the Council is the entity to which members are elected.
- 17 In the Committee's view, where it is appropriate for a district to be divided into wards, there should be such number as is necessary and consistent with the concept of effective representation of various communities of interest.
- 18 The Council has proposed that the District be divided into 5 wards, based on the wards that applied for the 1998 election of the Council.
- 19 Arguments were made by two of the appellants for the amalgamation of the Lakes/Murchison Ward with the Moutere/Waimea Ward. The Committee is of the view that the size and relative isolation of the Lakes/Murchison Ward and its distinctive geographical features are such that this is a distinct community of interest that warrants separate representation from the Moutere/Waimea Ward.
- 20 One appellant argued for an alteration to the boundaries of the Lakes/Murchison Ward and the Moutere/Waimea Ward as a means of achieving fairer representation for the wards of the District. From the information presented to it, the Committee was not satisfied that the specific boundary arrangements proposed by the appellant

would provide more effective representation for the affected communities of interest than the arrangements proposed by the Council.

- 21 Having considered the evidence presented to it at the hearing of the appeal, and other material gathered by it, the Committee is satisfied that the wards proposed by the Council more or less equate to the communities of interest requiring separate representation on the Council. In coming to that conclusion, the Committee considered the distinct nature of each community and the geographical characteristics of the District.

Number of Members

- 22 Having decided that there will be 5 wards, the Committee is then required to determine what would be fair representation for the electors of the various wards.
- 23 As noted above, the number of members to be elected by each ward is to be determined on the basis of providing fair representation for the electors of the various wards having regard to population and, if the circumstances so require, the rateable value and area of every ward. However, inherent in the decision to create an area as a ward is a requirement that the ward be represented by at least one member.
- 24 Set out below are three tables. Table 1 shows the number of members that each ward would be entitled to taking into account population only with a total membership of 13 (excluding the Mayor) as proposed by the Council, or with a total membership of 12 or 14. Table 2 shows the same information taking into account the three factors of population weighted at 80%, rateable capital value weighted at 10%, and area weighted at 10%, as were applied by the Council. Table 3 takes into account the three factors of population weighted at 75%, rateable capital value weighted at 12.5%, and area weighted at 12.5%, which are the weightings that have been applied by some local authorities with regional council responsibilities. The population figures applied in the tables are 1999 estimated resident population figures provided by Statistics New Zealand.

Table 1

| Ward | Population | % | 12 members | 13 members | 14 members |
|-----------------|------------|-------|------------|------------|------------|
| Lakes/Murchison | 2340 | 5.85 | 0.70 | 0.76 | 0.82 |
| Moutere/Waimea | 10650 | 26.63 | 3.20 | 3.46 | 3.73 |
| Richmond | 11600 | 29.00 | 3.48 | 3.77 | 4.06 |
| Motueka | 10500 | 26.25 | 3.15 | 3.41 | 3.67 |
| Golden Bay | 4910 | 12.27 | 1.47 | 1.60 | 1.72 |

Table 2

| Ward | Factor Value | 12 members | 13 members | 14 members |
|-----------------|---------------------|-------------------|-------------------|-------------------|
| Lakes/Murchison | 10.85 | 1.30 | 1.41 | 1.52 |
| Moutere/Waimea | 25.56 | 3.07 | 3.32 | 3.58 |
| Richmond | 26.15 | 3.14 | 3.40 | 3.66 |
| Motueka | 23.35 | 2.80 | 3.04 | 3.27 |
| Golden Bay | 14.09 | 1.69 | 1.83 | 1.97 |

Table 3

| Ward | Factor Value | 12 members | 13 members | 14 members |
|-----------------|--------------|------------|------------|------------|
| Lakes/Murchison | 12.10 | 1.45 | 1.57 | 1.69 |
| Moutere/Waimea | 25.29 | 3.04 | 3.29 | 3.54 |
| Richmond | 25.44 | 3.05 | 3.31 | 3.56 |
| Motueka | 22.62 | 2.71 | 2.94 | 3.17 |
| Golden Bay | 14.55 | 1.75 | 1.89 | 2.04 |

- 25 Given the diversity of the District and the responsibilities of the Council as a unitary authority, the Committee has given consideration to applying factors of rateable value and area, in addition to that of population. The inclusion of the two additional factors of area and rateable value enable two measures of Council activity to be taken into account. The use of area as a factor enables recognition to be given to the fact that land-based activities over less densely populated areas are a significant part of the responsibilities and expenditure of the Council. The use of rateable value enables due regard to be given to people-based activities which require the provision of services and infrastructure and the regulation of development in more closely settled areas.
- 26 As can be seen from Table 2, the Council's application of weightings of 80% population, 10% rateable value and 10% area does not achieve the level of representation for the Lakes/Murchison Ward proposed by the Council. When considering the representation proposed by the Council for the other wards the Lakes/Murchison Ward would only be entitled to 1 member. If the Lakes/Murchison Ward were to be provided with two members, then the Richmond and Moutere/Waimea Wards would each be entitled to 2 members to achieve fairness of representation.
- 27 The Committee is of the view that the weightings applied by the Council have not been appropriate to achieve fair representation between the electors of each ward. Given the particular characteristics of the District and the Council's responsibilities as a unitary authority, the Committee has considered whether weightings of 75% population, 12.5% rateable value and 12.5% area would achieve fairness of representation between the electors of each ward.
- 28 Table 3 shows the indicative level of membership achieved through applying the weightings of 75% population, 12.5% rateable value and 12.5% area. It indicates that fairness of representation is more or less achieved with a 13 member Council. Having considered all aspects of the matter of representation the Committee has concluded that the membership of the Council should total 13 members and the Mayor, taking into account population, rateable value and area on the basis outlined above.

DETERMINATION

- 29 Under section 101K of the Act, the Committee, acting under delegated authority from the Commission, determines that for the general election of the Council to be held on 13 October 2001 -
- (1) The Tasman District as delineated on S.O. Plan 14462 deposited with the Chief Surveyor of the Nelson Land District, shall be divided into 5 wards;
 - (2) Those 5 wards shall be -
 - (a) The Lakes/Murchison Ward, comprising the area delineated on S.O. Plan No. 14468 deposited with the Chief Surveyor of the Nelson Land District;
 - (b) The Moutere/Waimea Ward, comprising the area delineated on S.O. Plan No. 14933 deposited with the Chief Surveyor of the Nelson Land District;
 - (c) The Richmond Ward, comprising the area delineated on S.O. Plan No. 14466 deposited with the Chief Surveyor of the Nelson Land District;
 - (d) The Motueka Ward, comprising the area delineated on S.O. Plan No. 14464 deposited with the Chief Surveyor of the Nelson Land District;
 - (e) The Golden Bay Ward, comprising the area delineated on S.O. Plan No. 14463 deposited with the Chief Surveyor of the Nelson Land District;
 - (3) The Council shall comprise the Mayor and 13 members who shall be elected as follows -
 - (a) two members shall be elected by the electors of the Lakes/Murchison Ward;
 - (b) three members shall be elected by the electors of the Moutere/Waimea Ward;
 - (c) three members shall be elected by the electors of the Richmond Ward;

- (d) three members shall be elected by the electors of the Motueka Ward; and
- (e) two members shall be elected by the electors of the Golden Bay Ward.

30 As required by section 101L(2) of the Act, the boundaries of the above wards coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes.

THE COMMITTEE OF THE COMMISSION

Sir Ross Jansen (Chairman)
Barbara Durbin (Commissioner)

27 March 2001