



## LOCAL GOVERNMENT COMMISSION

### Determination

of the membership and basis of election for the  
general election of the Tauranga City Council  
to be held on 9 October 2004

#### BACKGROUND

- 1 The Tauranga District Council (“the Council”) undertook a review of the membership and basis of election of the Council, and also considered whether to constitute one or more communities, under sections 19H and 19J of the Local Electoral Act 2001 (“the Act”). On 29 July 2003 the Council resolved the initial proposed electoral arrangements to apply for the general election of the Council to be held in October 2004.
- 2 The Council elected at the 2001 general election comprises 13 members and the Mayor. The 13 members were elected as follows:

Mount Maunganui-Papamoa Ward	4 members
Bethlehem-Otumoetai Ward	4 members
Te Papa Ward	3 members
Welcome Bay Ward	2 members.

- 3 Following its review, the Council proposed the following electoral arrangements as its initial proposal:

Ward	Population	Members	Est. Population Per Member (30 Jun 02)
Mount Maunganui-Papamoa Ward	33000	4	8250
Otumoetai-Bethlehem Ward	28700	4	7175
Te Papa-Welcome Bay Ward	33850	4	8462
<b>Total</b>	<b>95550</b>	<b>12</b>	<b>7962</b> (Average)

- 4 The decrease in membership of the Council to 12, and the proposal to combine the existing Te Papa and Welcome Bay Wards enabled the Council to comply with section 19V of the Act.
- 5 The Council resolved not to constitute any communities within the District.
- 6 The Council received seven submissions to its initial proposal. The issues raised included:
- The Council should comprise six members only; three elected from wards, and three at large;
  - The Council should comprise 15 members, all elected at large;
  - The Council should comprise eight members only; three elected from wards, and five elected at large;
  - Generally supporting the Council's proposal;
  - The Council should comprise 12 members elected at large.
- 7 Following consideration of the submissions, the Council confirmed its initial proposal. Two of the submitters appealed against the Council's decision. The subject matter of the appeals was dissatisfaction with the Council's decision not to opt for a system of electing some members from wards and the others at large.

## Hearing

- 8 The Commission, on receiving advice of the appeals, decided that it would meet with the Council, and the appellants if they wished to be heard. The hearing was held in Tauranga on 4 February 2004.
- 9 The Council and both appellants appeared before the Commission at the hearing. The Council outlined its proposal, and reasons, and the appellants spoke to their appeals.

## MATTERS FOR DETERMINATION

- 10 The statutory provisions in respect of these appeals and objections are contained in sections 19R, 19H and 19J of the Act.

**19R. Commission to determine appeals and objections**

**(1) The Commission must—**

- (a) consider the resolutions, submissions, appeals, objections, and information forwarded to it under section 19Q; and**
- (b) subject to sections 19T and 19V in the case of a territorial authority, and to sections 19U and 19V in the case of a regional council, determine,—**
- (i) in the case of a territorial authority that has made a resolution under section 19H, the matters specified in that section:**
- (ii) in the case of a regional council that has made a resolution under section 19I, the matters specified in that section:**

- (iii) *in the case of a territorial authority that has made a resolution under section 19J, the matters specified in that section.*
- (2) *For the purposes of making a determination under subsection (1)(b), the Commission*
  - (a) *may make any enquiries that it considers appropriate; and*
  - (b) *may hold, but is not obliged to hold, meetings with the territorial authority or regional council or any persons who have lodged an appeal or objection and have indicated a desire to be heard by the Commission in relation to that appeal or objection.*
- (3) *The Commission must, before 11 April in the year of a triennial general election, complete the duties it is required to carry out under subsection (1).*

**19H. *Review of representation arrangements for elections of territorial authorities***

- (1) *A territorial authority must determine by resolution, and in accordance with this Part,—*
  - (a) *whether the members of the territorial authority (other than the mayor) are proposed to be elected—*
    - (i) *by the electors of the district as a whole; or*
    - (ii) *by the electors of 2 or more wards; or*
    - (iii) *in some cases by the electors of the district as a whole and in the other cases by the electors of each ward of the district; and*
  - (b) *in any case to which paragraph (a)(i) applies, the proposed number of members to be elected by the electors of the district as a whole; and*
  - (c) *in any case to which paragraph (a)(iii) applies,—*
    - (i) *the proposed number of members to be elected by the electors of the district as a whole; and*
    - (ii) *the proposed number of members to be elected by the wards of the district; and*
  - (d) *in any case to which paragraph (a)(ii) or paragraph (a)(iii) applies,—*
    - (i) *the proposed name and the proposed boundaries of each ward; and*
    - (ii) *the number of members proposed to be elected by the electors of each ward.*
- (2) *The determination required by subsection (1) must be made by a territorial authority,—*
  - (a) *on the first occasion, either in 2003 or in 2006; and*
  - (b) *subsequently, at least once in every period of 6 years after the first determination.*
- (3) *This section must be read in conjunction with section 19ZH and Schedule 1A.*

**19J. Review of community boards**

- (1) *A territorial authority must, on every occasion on which it passes a resolution under section 19H, determine by that resolution, and in accordance with this Part, not only the matters referred to in that section but also whether, in light of the principle set out in section 4(1)(a) (which relates to fair and effective representation for individuals and communities),—*
- (a) *there should be communities and community boards; and*
  - (b) *if so resolved, the nature of any community and the structure of any community board.*
- (2) *The resolution referred to in subsection (1) must, in particular, determine—*
- (a) *whether 1 or more communities should be constituted:*
  - (b) *whether any community should be abolished or united with another community:*
  - (c) *whether the boundaries of a community should be altered:*
  - (d) *whether a community should be subdivided for electoral purposes or whether it should continue to be subdivided for electoral purposes, as the case may require:*
  - (e) *whether the boundaries of any subdivision should be altered:*
  - (f) *the number of members of any community board:*
  - (g) *the number of members of a community board who should be elected and the number of members of a community board who should be appointed:*
  - (h) *whether the members of a community board who are proposed to be elected are to be elected—*
    - (i) *by the electors of the community as a whole; or*
    - (ii) *by the electors of 2 or more subdivisions; or*
    - (iii) *if the community comprises 2 or more whole wards, by the electors of each ward:*
  - (i) *in any case to which paragraph (h)(ii) applies, -*
    - (i) *the proposed name and the proposed boundaries of each subdivision; and*
    - (ii) *the number of members proposed to be elected by the electors of each subdivision.*
- (3) *Nothing in this section limits the provisions of section 19F.*

- 11 When applying the principles detailed above, the principles of the Act (set out in section 4 of the Act) need to be taken into account, particularly the principle of fair and effective representation for individuals and communities.

**Consideration by the Commission**

- 12 The Commission considers that when deciding the basis of election of the Council, i.e., whether the Council should be elected at large, or by wards, or partly by wards and partly at large, the criterion to be met within the terms of section 19T of the Act is the provision of effective representation for the various communities of interest within the District. The Commission must determine which communities of interest require representation. If wards are considered to be appropriate, then any one ward may encompass one or more

communities of interest.

- 13 Section 19V provides that the electors of the various wards within the District must receive fair representation. Section 19V(3) provides that the requirements of section 19V(2) may only be set aside in the circumstances where the Commission considers that island or isolated communities require specific representation. The provisions of section 19V which are relevant to the Commission's consideration are subsections 1, 2 and 3, as follows:

**19V. Requirement for fair representation and other factors in determination of membership for wards, constituencies, and subdivisions**

- (1) *In determining the number of members to be elected by the electors of any ward or constituency or subdivision, the territorial authority or regional council and, where appropriate, the Commission must ensure that the electors of the ward or constituency or subdivision receive fair representation, having regard to the population of every district or region or community and every ward or constituency or subdivision within the district or region or community.*
- (2) *For the purposes of giving effect to subsection (1), the territorial authority or regional council and, where appropriate, the Commission must ensure that the population of each ward or constituency or subdivision, divided by the number of members to be elected by that ward or constituency or subdivision, produces a figure no more than 10% greater or smaller than the population of the district or region or community divided by the total number of elected members (other than the mayor, if any).*
- (3) *Despite subsection (2),—*
- (a) *if the territorial authority or the Commission considers that the effective representation of communities of interest within island communities or isolated communities situated within the district of the territorial authority so requires, wards and subdivisions of a community may be defined and membership distributed between them in a way that does not comply with subsection (2):*
- (b) *if the regional council or the Commission considers that effective representation of communities of interest so requires, constituencies may be defined and membership distributed between them in a way that does not comply with subsection (2).*

- 14 The Commission notes that any preliminary ward arrangements determined to reflect communities of interest may need to change to ensure that the population per member requirement of section 19V(2) is met, unless it is satisfied that island or isolated communities require separate representation to achieve effective representation.

- 15 The Commission's first responsibility 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.

- 16 The Tauranga District is primarily urban. While it contains significant areas of rural land, much of this is being developed, or will eventually be utilised for housing or other urban purposes. While the District is centred upon Tauranga Harbour, the nature of that harbour, by dividing much of the District between three peninsulas has, in the past, contributed to the development of different communities of interest. Much of the argument advanced by the appellants related to their opinion that this separation is rapidly diminishing. Although the Council was officially opposed to this view, the Mayor advised the Commission that her preference would have been for an election at large. Although this proposition was raised in two submissions from others, neither of the appellants went so far as to raise this as an issue.
- 17 The principal points made by the appellants were as follows:
- The whole District is very small; it takes only a short time to drive from one side to the other outside of peak traffic times;
  - There are no areas where the great majority of the residents can be considered either wealthy or at the lower end of the economic scale, rather, all areas contain a mix of socio-economic groups; therefore, it is unlikely that a majority of members would always come from one area of the District;
  - The whole District is similarly affected by rapid development; and
  - All the major projects are of District-wide concern.
- 18 However, the appellants had accepted that at least some of the members of the Council should be elected from wards, so the Commission felt obliged to retain a ward system for the 2004 election. Had the appellants overtly sought to have all members elected at large, the Commission would have considered that such a proposition had merit.

### **Appropriate Ward System and Membership**

- 19 Having decided that there would continue to be a ward system for the election, the Commission then considered 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 19T 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.
- 20 The Commission emphasises that wards are for electoral purposes only, and that the Council is the entity to which members are elected.
- 21 In the Commission's view, where a district is to be divided into wards, there should be such number of wards as is necessary and consistent with the concept of effective representation of various communities of interest. In this regard the requirements of section 19V(2) also need to be taken into account, as the population that each ward member represents must be generally similar across the District.

- 22 The Council has proposed that the District should be divided into three wards. The Council considered that the proposed structure would provide effective representation for what it sees as the major communities of interest within the District while complying with the +/-10% rule of section 19V(2).
- 23 The Commission considers that there is no evidence of isolation in the District. There are no rural or island communities to which the Commission needed to apply the criteria that it uses in mixed urban/rural districts.
- 24 In considering the proposal put forward by the Council, the Commission noted that the current ward memberships do not comply with the requirements of section 19V(2) of the Act. The Council was therefore required to either alter its wards so that they did comply with the statutory requirements, or alter its membership, or both. The Council chose to amalgamate two of its wards and reduce its membership by one.
- 25 The Commission therefore decided to confirm the Council's proposals that the Tauranga District shall be divided into three wards as follows:
- The Mount Maunganui-Papamoa Ward;
  - The Bethlehem-Otumoetai Ward; and
  - The Te Papa-Welcome Bay Ward.
- 26 The Council proposed that the electors of each ward should elect four members. However the Commission was persuaded by the argument of the appellants that the situation within the District has changed considerably since it was constituted in 1989. As noted, the Mayor herself stated that her personal view was that the Council should now be elected at large. In the circumstances, and given that no direct request was received from the appellants for an at large election, the Commission has decided that the members of the Council shall be elected partly from wards and partly at large.
- 27 Given the evidence that the major issues facing the residents of the District essentially affect the District as a whole, the Commission agrees with the contention that the ward members should make up a minority on the Council. Both the appellants suggested that one member from each ward would be sufficient. The Commission considers that this would be appropriate.
- 28 As to the number of members to be elected at large, the Commission did not agree with the numbers suggested by the appellants; i.e. three and five respectively. The Commission is aware that Tauranga is one of the most rapidly growing centres in New Zealand. It has just been declared a city as from the 1<sup>st</sup> of March 2004, and its population has also just passed 100,000. The complex issues raised by planning for rapid growth require a reasonable pool of elected members to deal with them. In the Commission's view the minimum sized council for a district of this nature would be a total of ten elected members, excluding the Mayor. Given that three members have already been allocated to the three wards, the Commission has therefore determined that a total of seven further members shall be elected at large.

## COMMUNITIES

- 29 At this time there are no communities within the District, and the Council has resolved that none be constituted at this time. The Council received no submissions seeking any communities. In the absence of any important degree of interest within the District, the Commission has determined that there be no communities constituted at this time.

## DETERMINATION

- 30 Under section 19R of the Act, the Commission determines that for the general election of the Council to be held on 9 October 2004 -
- (1) The Tauranga City as delineated on S.O. Plan 334308 deposited with Land Information New Zealand, shall be divided into three wards;
  - (2) Those three wards shall be -
    - (a) The Mount Maunganui-Papamoa Ward, comprising the area delineated on S.O. Plan No 60086 deposited with Land Information New Zealand;
    - (b) The Bethlehem-Otumoetai Ward, comprising the area delineated on S.O. Plan No 58068 deposited with Land Information New Zealand: and
    - (c) The Te Papa-Welcome Bay Ward, comprising the area delineated on S.O. Plan No 334306 deposited with Land Information New Zealand.
  - (3) The Council shall comprise the Mayor and 10 members; seven of whom shall be elected at large, and the remaining three as follows -
    - (a) One member shall be elected by the electors of the Mount Maunganui-Papamoa Ward;
    - (b) One member shall be elected by the electors of the Bethlehem-Otumoetai Ward; and
    - (c) One member shall be elected by the electors of the Te Papa-Welcome Bay Ward.
- 31 As required by section 19T(b) 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.

32 From 1 March 2004, the Tauranga District became a city. Therefore this determination will apply to the Tauranga City Council.

## **THE LOCAL GOVERNMENT COMMISSION**

Grant Kirby (Chairman)  
Linda Constable (Commissioner)  
Kerry Marshall (Commissioner)

7 April 2004