

## TAURANGA DISTRICT COUNCIL

### Background

1. The Tauranga District Council (hereafter referred to as "the Council"), in accordance with section 101H of the Local Government Act 1974 (hereafter referred to as "the Act"), carried out a review of its membership and the basis of the election of its members prior to the triennial general election to be held in October 1998.
2. The present membership is a Mayor, and 14 members elected from the following wards:

<b>Wards</b>	<b>Members</b>
Mount Maunganui/Papamoa	4
Te Papa	4
Otumoetai/Bethlehem	4
Welcome Bay/Pyes Pa	2

3. After carrying out its review, the Council resolved that the Council continue to comprise a Mayor and 14 members, but that the members be elected from the district as a whole rather than by wards as at present.
4. The Council received 58 objections, each opposing the election of the council at large. The objections were considered by the Council on 15 September when it resolved to retain the existing membership and wards. The reason given by the Council for altering its original proposal was "because of community submissions received and because of what was understood to be proposed changes for the future of Local Government".

### Appeals and Counter-objections

5. The Council received 10 appeals and counter-objections as follows:

John Thorby;  
 P Farrelly;  
 Mount Maunganui Ratepayers and Residents Association;  
 Papamoa Progressive Association;  
 E H & P J Kliskey;  
 Mr & Mrs W S Spencer;  
 F W Jackson;  
 R A Stride;  
 Len Bailey; and  
 Bob Groves

### Matter for Preliminary Determination

6. The Commission on receiving advice of the appeals resolved that, before making a determination of the appeals and counter-objections, the Commission would meet with the Council and with the appellants and counter-objectors if they wished to be heard. The date of the meeting was fixed for 2 December 1997.

### **The Hearing**

7. The Commission met with representatives of the Council and with those appellants and counter-objectors who wished to be heard. Appearing for the Council were the Mayor, Noel Pope, and the Chief Executive, Paula Thompson.
8. The Council's representatives outlined the reasons for the Council having made the decisions it did, and its arguments for not making any change to the distribution of membership between wards.
9. Council decided to retain the ward system and the status quo in regard to membership/population ratios, boundaries and names because:
- All 58 objections received were against an at large system and wanted the ward system retained;
  - It was felt by many councilors that it would be unwise to change the system at this point as there was a possibility of a reorganisation of local government in the Bay of Plenty Region in the near future;
  - No evidence was presented to Council of any disadvantage under the current system (the question of under-representation of wards having only been raised late in the process);
  - The relatively small differences in membership/population ratios for the wards do not warrant, at this stage, any tinkering with them;
  - Growth has occurred in all wards and there are two wards that have a large potential for additional growth;
  - Welcome Bay/Pyes Pa Ward has an estimated capacity for approximately 3,500 new dwellings from greenfield subdivisions;
  - Mount Maunganui/Papamoa Ward has an estimated capacity for approximately 3,200 dwellings from greenfield subdivisions; and
  - Welcome Bay/Pyes Pa Ward also had the largest population growth from 1986-1996, and is projected to continue such growth until 2001
10. In further discussion, the Council highlighted the very high rate of population growth in Tauranga District, both since the last census and in the foreseeable future. By 2001, the population of the district was expected to rise from the current 78,318 to 87,200 on a medium projection. Further high growth was expected to continue to at least 2021.

11. The Council hoped that the Commission would take a liberal approach to this issue and permit the Council to correct any significant anomalies that arise over the next 3 years in the review prior to the 2001 elections.
12. The remainder of the hearing was given over to submissions from appellants and counter-objectors. Those who appeared were as follows:

J Kliskey;

Len Bailey;

John Thorby;

Papamoa Progressive Association (represented by Bruce Crosby and Doug Morris); and  
Mount Maunganui Residents and Ratepayers Assoc. (represented by Phil Spanswick).

**John Kliskey** sought an additional member for the Mount Maunganui/Papamoa Ward on the grounds that its population warranted it. He stated that:

- this was required on the basis of fairness; and
- the rate of growth in the ward, particularly in Papamoa; will lead to a situation where a vote in the ward would be worth half that in the Te Papa Ward.

In discussion he stated that he did not think that residents in the district would want an increase in the total number of councilors, rather they would be content with a reallocation of members between wards if this resulted in fairer representation.

**Len Bailey** sought the introduction of an "at large" system. He considered that this:

- would deal with the issue of fairer representation;
- create a system that would help overcome parochial feeling; and
- could result in a Maori councilor being elected to the Council.

In discussion, Mr Bailey stated that if the Council were to be elected at large, a total of 10 members would be sufficient.

**John Thorby** sought the retention of the existing system. He did not consider that this would lead to any serious injustice, although a review could be undertaken prior to the 2001 election.

**The Papamoa Progressive Association** sought a fairer allocation of members between wards on the basis that this was justified by the distribution of population between the wards. Its preference was for the following membership:

<b>Wards</b>	<b>Members</b>
Mount Maunganui/Papamoa	5
Te Papa	3
Welcome Bay/Pyes Pa	2
Otumoetai/Bethlehem	4

The Association had not raised this issue earlier in the process because it considered the initial issue to be the retention of wards. It had assumed that, if the existing wards were retained, the Council would review the populations and membership of the wards.

In discussion on whether the current ward boundaries are the most appropriate, it was indicated that, although the Association had not specifically considered the issue, no difficulties or possible changes were considered to exist.

**The Mount Maunganui Residents and Ratepayers' Association** sought an alteration to the distribution of members between wards to fairly reflect the population of those wards. Its preference was for one additional member for the Mount Maunganui/Papamoa Ward. The Association was opposed to an at large system of election as it considered there to be a risk of domination by one group.

### Matters for Determination

- 13 The statutory provisions in respect of this appeal 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 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."*

14. 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 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**

15. The Commission considers 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.

16. The Commission further considers that when deciding on the number of councilors 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.

17. The first issue to be addressed by the Commission was whether the Council was to be elected from the district as a whole or from wards. In the view of the Commission, Tauranga District constitutes a number of distinct communities of interest, the boundaries of which are easily discernible by geographical features, and the pattern of urban development. The Commission considers that these communities of interest are distinct enough to require representation on the Council by way of wards, either individually or in groups of communities of interest. The question of whether the current ward boundaries are the most appropriate was briefly canvassed at the hearing. No particular boundary anomalies were brought to the attention of the Commission, and in any case, a perusal of

maps showing the current ward boundaries indicated that there is little room for significant change to ward boundaries without departing from the boundaries of communities of interest. The Commission therefore decided that Tauranga District shall continue to be divided into wards for electoral purposes. and that those wards shall be based on the current ward boundaries.

18. The next issue to be addressed by the Commission, and the issue raised by a majority of the appeals and counter-objections, was the appropriate number of members to be elected from each ward. As noted above, the Commission is required to ensure that the electors of each ward receive fair representation, having regard to the population of every ward and, if the circumstances so require, the rateable values, areas, or other relevant characteristics of the various wards. In a predominantly urban district such as Tauranga District, the Commission will normally determine this solely on the basis of the population of the various wards.
19. The following table sets out the statistical entitlement of each ward with membership of the Council varying from 12 to 16.

Ward	Population	%	Members				
			12	13	14	15	16
<b>Mount Maunganui/Papamoa</b>	25,011	32.16	3.86	4.18	4.50	4.82	5.15
<b>Welcome Bay/Pyes Pa</b>	11,462	14.74	1.77	1.92	2.06	2.21	2.36
<b>Te Papa</b>	16,769	21.56	2.59	2.80	3.02	3.23	3.45
<b>Otumoetai/Bethlehem</b>	24,533	31.54	3.78	4.10	4.42	4.73	5.05
<b>Total</b>	<b>77,775</b>	<b>100.00</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>

As can be seen from the above table, on the current membership of 14 both the Mount Maunganui/Papamoa, and Otumoetai/Bethlehem Wards are under-represented with their current allocation of 4 members each. They do not provide a good statistical fit. The Te Papa Ward with its current allocation of 4 members is grossly over-represented. In any council with membership between 12 and 16, the Te Papa Ward is entitled, on a statistical basis, to only 3 rather than the current 4 members.

20. The Council argued any restructuring of wards or reallocation of membership should await the review to be carried out prior to the election to be held in 2001. This was argued by the Council, both at the hearing and in the course of its review, on the grounds that one of the relevant characteristics that should be taken into account in determining fair representation is the growth in population of Tauranga District.
21. The Commission has difficulty in seeing how not making a change at this stage would assist in achieving fair representation. It would, in the view of the Commission, achieve exactly the opposite. The Commission considers that the Act gives a clear instruction to determine fair representation having regard to the population, either as determined at the

most recent census or by the Government Statistician at a date since the last census. Section 101L(3) does allow other factors and characteristics to be taken into account in determining fair representation. However, the Commission does not believe that use of these characteristics can be used to entirely negate the primary factor - that of the most recently determined population.

- 22 The Council, at the hearing, stressed the importance of taking an evolutionary approach to the restructuring of wards and membership. The Commission believes that making change now is entirely in keeping with the evolutionary approach. The approach proposed by the Council could, if population growth continues at the current rate, make the change even more dramatic in the review carried out prior to the 2001 elections.
- 23 The Commission also does not consider that possible restructuring of local government in the Western Bay of Plenty is a justification for not making changes to the number of members to be elected from any of the wards. As noted above, the Act gives a clear instruction to determine fair representation prior to each election and that obviously must be done in the context of the existing structures of local government.
- 24 The Commission considers that fair representation for each of the wards can be best achieved through total membership of 13 and an allocation of members between wards as follows:

<b>Ward</b>	<b>Members</b>
Mt Maunganui/Papamoa	4
Welcome Bay/Pyes Pa	2
Te Papa	3
Otumoetai/Bethlehem	4

## **Determination**

- 25 Pursuant to section 101K of the Act, the Commission hereby determines that for the triennial general election in 1998:
- (1) The Tauranga District, as delineated on SO Plan No 58067 deposited with the Chief Surveyor of the South Auckland Land District shall be divided into four wards:
  - (2) Those four wards shall be:
    - (a) the Mount Maunganui/Papamoa Ward, comprising the area delineated on SO Plan No 59228 deposited with the Chief Surveyor of the South Auckland Land District:
    - (b) the Te Papa Ward, comprising the area delineated on SO Plan No 58069:

- (c) the Otumoetai/Bethlehem Ward, comprising the area delineated on SO Plan No 58068 deposited with the Chief Surveyor of the South Auckland Land District:
  - (d) the Welcome Bay/Pyes Pa Ward, comprising the area delineated on SO Plan No 58070 deposited with the Chief Surveyor of the South Auckland Land District:
- (3) The Council shall comprise a Mayor and 13 members of whom:
- (a) Four members shall be elected by the electors of the Mount Maunganui/Papamoa Ward; and
  - (b) Three members shall be elected by the electors of the Te Papa Ward; and
  - (c) Four members shall be elected by the electors of the Otumoetai/Bethlehem Ward; and
  - (d) Two members shall be elected by the electors of the Welcome Bay/Pyes Pa Ward.
26. As required by section 101L 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**

Ian Lawrence (Chairman)  
Barbara Durbin (Commissioner)  
Robin Wilkins (Commissioner)

27 March 1998