



LOCAL GOVERNMENT COMMISSION

Determination

of the membership and basis of election for the general election of the Thames-Coromandel District Council to be held on 9 October 2004

BACKGROUND

- 1 The Thames-Coromandel District Council (“the Council”) undertook a review of the membership and basis of election of the Council, and of community boards under sections 19H and 19J of the Local Electoral Act 2001 (“the Act”). On 27 August 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 9 members and the Mayor. The 9 members were elected as follows:

Thames Ward	3 members
Mercury Bay Ward	2 members
Coromandel-Colville Ward	1 member
Tairua-Pauanui Ward	1 member
Whangamata Ward	2 members

- 3 Elections were held for five community boards within the District at the 2001 general election. They each cover the same areas, and have the same names as the five wards. The boards and their memberships are as follows;

Community Board	Elected Members	Appointed Members
Thames	6	3
Coromandel-Colville	4	1
Mercury Bay	4	2
Tairua-Pauanui	5	1
Whangamata	4	2

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

Council

The Council would comprise the Mayor, and 8 members elected from two wards. The proposed East Coast Ward would be a combination of the existing Mercury Bay, Tairua-Pauanui, and Whangamata Wards. The West Coast Ward would be a combination of the existing Thames and Coromandel-Colville Wards. This produced the situation shown in the following table:

Ward	Members	Population Per Member (2001 Census)	Population
East Coast	4	3048	12192
West Coast	4	3246	12984

Communities

- 5 The five existing communities would be retained. The community board for each community would have four elected members and three appointed members.
- 6 The Council received 283 submissions to its initial proposal, and the issues raised included:
- Support for the Council’s proposal;
 - Opposed to the Council’s proposal to amalgamate the Coromandel-Colville and Thames Wards;
 - While generally supportive of the Council’s proposal, would prefer five members from each of the two wards;
 - Replace the Thames Community Board with a Council committee;
 - Community board chairpersons should have a greater role in Council activities;
 - Community boards should have greater autonomy;
 - Retain the Coromandel-Colville Ward with one member, but have a second member deputed to also act for the Ward;
 - Retain separate Thames and Coromandel-Colville Wards, but adjust the boundary between them;
 - There should be three wards, to be called North, East, and Thames; and
 - Retain the Colville-Coromandel Ward with two members.
- 7 Following consideration of the submissions, the Council confirmed its initial proposal, except that the two wards were renamed, “The Coromandel Peninsula East Ward” and “The Coromandel Peninsula West Ward”. There were five appeals and one objection against the Council’s decision.

- 8 The subject matter of the appeals and objection included the following:
- Opposed to the amalgamation of the Coromandel-Colville and Thames Wards; and
 - Opposed to the proposal to appoint three Council members to each community board because the fourth ward councillor may miss out on being appointed to any board.

Hearing

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

MATTERS FOR DETERMINATION

- 11 The statutory provisions in respect of these appeals and objections are contained in sections 19R, 19I 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.*

- 12 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

- 13 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 of 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.
- 14 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).*

- 15 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.
- 16 The Commission's first responsibility was to decide whether or not the District should be divided into wards. If wards were to apply it then had to determine the number and boundaries of those wards to provide effective representation of communities of interest within the District.
- 17 The Thames-Coromandel District covers a very large area. It includes the townships of Thames and Coromandel on the west coast, and Whangamata, Pauanui, Tairua, and Whitianga on the east coast. In addition to other small settlements there are large farming and forestry areas, and areas devoted to horticulture. The District is a very popular holiday destination. The Commission came to the view that because of the size and diversity of the District, and its widely separated areas, 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 appellants supported a ward system for electoral purposes.

Appropriate Ward System and Membership

- 18 Having decided that the basis of election would be the ward system, 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.

- 19 The Commission emphasises that wards are for electoral purposes only, and that the Council is the entity to which members are elected.
- 20 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.
- 21 The Council has proposed that the District should be divided into two wards; one for the Thames and Coromandel-Colville areas, the other for the rest of the eastern part of the District. 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).
- 22 The views of those appellants who wished to see the retention of a separate Coromandel-Colville Ward fell principally under two headings:
- The area is isolated within the terms of the Act; and
 - The area had its own distinct community of interest.
- 23 The Commission considered the question of whether there is evidence of isolation in the Coromandel-Colville area. To help it in considering this question, the Commission applied the following criteria:
- Physical separation alone is not isolation;
 - For a community to have enhanced representation on the grounds of isolation a significant proportion of the population of the area must be isolated;
 - Remote rural areas are not automatically isolated;
 - Isolation must be evidenced by significant distance or travel time, or other physical/practical travel and/or communications difficulties;
 - Isolation must relate to the ability of a community to receive appropriate representation by elected members; and
 - Isolation may justify one member instead of no separate representation for a community, but caution would need to be used in allocating additional members on that basis.
- 24 The Commission received evidence, particularly on behalf of the Port Charles Ratepayers and Residents Association, about the distance of the northern part of the present Ward from Thames and, in fact, from the southern part of the Ward. The Commission was told that the nature of the roads in that area makes the provision of local government services very difficult and, at times, somewhat tenuous. The Commission considers that, had it been necessary, it would have

been prepared to retain the Coromandel-Colville Ward because significant parts of it meet the criteria listed in the previous paragraph of this determination.

25 However, the evidence presented by the other appellants that Coromandel-Colville has a sufficiently distinct community of interest to warrant its retention as a separate ward convinced the Commission. In this respect, it also noted that the population of the area is such that the allocation of a single member to represent it would not lead to any conflict with section 19V(2) of the Act. The Commission does not believe that the Ward would justify more than a single member. Therefore the Commission determined that the Coromandel-Colville Ward would continue in existence, and would continue to be represented by one member.

26 The proposal of the Council to amalgamate the three wards to the east of the District is confirmed. The District will be divided into three wards for the next elections. These wards, and their memberships, are as shown in the following table:

Ward	Population (2001 Census)	Members	Population Per Member
Thames	10107	3	3369
Coromandel-Colville	2877	1	2877
Coromandel Peninsula East	12192	4	3048
Totals	25176	8	Average 3147 (+/- 10% = 2832-3462)

Communities

27 The Council proposed the retention of all its existing communities, and the Commission considers this to be reasonable, given the number of widely separated population centres within the District. The Council has also proposed that the number of elected members from each community board is to be four. Although this was a reduction in membership for two of the boards, there were no appeals or objections against this aspect of the Council's proposals. There was one objection relating to the Council's proposal that there are to be three members appointed to each board. This objection was based on a view that, of the four councillors for each ward in the Council's proposal, it was possible that one councillor may not be appointed to the relevant community board. The Commission does not have the authority to intervene in the Council's process for determining which of its ward councillors are appointed to a community board. How a Council allocates its appointments to community boards among the council members of a particular ward is, within the constraints of the Act, its own affair.

28 That said, the Commission is firmly of the view that none of the community boards in the District need more than one appointed member. The role of an appointed member should, in the Commission's view, be the person providing a regular two-way flow of information and advice between a council and a board. Councillors should be giving more of their attention to strategic rather than operational matters. The Commission also observes that one consequence of its

decision on wards is that the Coromandel-Colville Community Board cannot have more than one appointed member. However, because the issue of the number of appointed members was not raised in submissions or appeals the Commission has decided that the other four community boards will have three appointed members as proposed by the Council.

GENERAL COMMENT

- 29 The Commission encourages territorial authorities that have communities constituted within their districts to review the functions delegated to community boards. The objective of such a review should be to facilitate the maximisation of the contribution of community boards to local governance. The Council is one of those bodies that the Commission has pointed to on a number of occasions as an example of adequate delegation. The Commission encourages the Council to continue to be proactive in endeavouring to make its community boards true partners in the governance of the District.

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 Thames-Coromandel District as delineated on S.O. Plan 33410 deposited with Land Information New Zealand, shall be divided into three wards;
 - (2) Those three wards shall be -
 - (a) The Thames Ward, comprising the area delineated on S.O. Plan No. 60947 deposited with Land Information New Zealand;
 - (b) The Coromandel-Colville Ward, comprising the area delineated on S.O. Plan No. 57968 deposited with Land Information New Zealand; and
 - (c) The Coromandel Peninsula East Ward, comprising the area delineated on S.O. Plan No. 33411 deposited with Land Information New Zealand.
 - (3) The Council shall comprise the Mayor and 8 members who shall be elected as follows -
 - (a) Three members shall be elected by the electors of the Thames Ward;
 - (b) One member shall be elected by the electors of the Coromandel-Colville Ward; and
 - (c) Four members shall be elected by the electors of the Coromandel Peninsula East Ward.

- (4) There shall be five communities as follows:
- (a) The Thames Community, comprising the area of the Thames Ward;
 - (b) The Coromandel-Colville Community, comprising the area of the Coromandel-Colville Ward;
 - (c) The Mercury Bay Community, comprising the area as delineated on S.O.Plan No. 60946 deposited with Land Information New Zealand;
 - (d) The Tairua-Pauanui Community, comprising the area as delineated on S.O.Plan No. 57973 deposited with Land Information New Zealand; and
 - (e) The Whangamata Community, comprising the area as delineated on S.O.Plan No. 57976 deposited with Land Information New Zealand;
- (5) Each community board shall have four elected members, and appointed members as follows:
- (a) For the Thames Community Board, three members of the Council representing the Thames Ward;
 - (b) For the Coromandel-Colville Community Board, one member of the Council representing the Coromandel-Colville Ward;
 - (c) For the Mercury Bay Community Board, three members of the Council representing the Coromandel Peninsula East Ward;
 - (d) For the Tairua-Pauanui Community Board, three members of the Council representing the Coromandel Peninsula East Ward; and
 - (e) For the Whangamata Community Board, three members of the Council representing the Coromandel Peninsula East Ward;

31 As required by sections 19T(b) and 19W(c) of the Act, the boundaries of the above wards and communities coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes.

THE LOCAL GOVERNMENT COMMISSION

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

7 April 2004