



## LOCAL GOVERNMENT COMMISSION

# Determination

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

### BACKGROUND

- 1 The Waikato Regional 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 change.
- 2 The Council elected at the 1998 general election comprises 14 members elected from 10 constituencies, as follows:

North Waikato Constituency	1 member
Central Waikato Constituency	1 member
Hamilton Constituency	4 members
Waipa Constituency	1 member
North King Country Constituency	1 member
Thames-Coromandel Constituency	1 member
Hauraki Constituency	1 member
Matamata-Piako Constituency	1 member
South Waikato Constituency	1 member
Taupo Constituency	2 members

- 3 The Council received one joint objection to its proposal, from the Hamilton City and Waikato District Councils. The subject matter of the objection may be summarised as follows:
  - the principle of one person, one vote has been overlooked in the formula used by the Council to determine representation;

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- an imbalance occurs when the populations of Hamilton City, Waikato District and Waipa District are compared against the population of the rest of the Region - a population of 213,440 is represented by 7 members against a population of 153,320 represented by the same number of members;
- the Council only considered two scenarios - population alone, and a formula based on 75% population, 12.5% area, and 12.5% equalised capital value - there are other combinations that show that a 13 member council gives a better fit than the Council's proposal;
- weighting the area factor at 12.5% gives an inflated membership to the North King Country and Taupo constituencies, which contain large tracts of sparsely occupied, and in the case of Taupo, unoccupied land administered by another authority - a maximum weighting of 5% should be applied to the area factor;
- a 13 member Council based purely on population provides a fairer representation than the Council's proposal - likewise, a formula based on weightings of 90% population, 5% area, 5% equalised capital value can be applied to arrive at fair representation;
- that portion of the Rotorua District within the Region should be transferred from the Taupo Constituency to the South Waikato Constituency - the community of interest of this area is obviously with Rotorua but it is otherwise far more closely aligned to South Waikato than it is to Taupo; and
- the Hauraki Constituency is over represented - while this may be permissible in terms of community of interest, there is a strong argument for reverting to a Waihou Constituency comprising the Matamata-Piako District and the Hauraki District.

4 Following consideration of the objection, the Council confirmed its original proposal for the following reasons:

- *“Council considers that the confirmed proposals provide for effective and fair representation of communities of interest within the Region*
- *Council considered that the matters raised had been taken into account when the proposals had been formulated.”*

5 The Hamilton City and Waikato District Councils jointly appealed the Council's decision. The subject matter of the appeal was based on that contained in their joint objection to the Council's initial proposals.

### **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 joint appellants if they wished to be heard. The Commission resolved to meet the Council and the joint appellants in Hamilton on 17 October 2000.



- Taupo, Otorohanga, Rotorua and Waitomo Districts have all indicated their support for the Council's proposal;
- the Council's decision to proceed with the status quo was unanimous;
- there are regular meetings and consultation between the Council and the Tuwharetoa Trust Board; and
- the issue of community of interest has been considered taking into account regional council functions.

Mr Neil Clarke spoke to a submission. The contents, his comments and replies to questions may be summarised as follows:

- the Council recognises the importance and predominance of the population factor but determined that an approach based on population together with other factors was necessary to achieve effective and fair representation of the regional communities;
- the Region is large and diverse, with rural and comparatively sparsely populated areas, as well as urban and densely populated areas;
- the nature and demand for Council services is dependent on land area, economic activities and geographical variations;
- endeavouring to achieve population uniformity within constituencies would split communities of interest;
- the Council requires 14 Councillors to effectively discharge its obligations - the efficiency of the Council will be adversely affected if councillor numbers were reduced;
- in developing its proposals the Council did not seek to justify retaining 14 members;
- regional and natural resourcing issues associated with the Taupo Constituency in particular warrant a weighting of 12.5% applied by the Council to land area; and
- the current constituency boundaries well serve regional communities of interest.

***Waitomo and Otorohanga District Councils:*** Mr Paul Davey spoke to a submission. Its contents may be summarised as follows:

- there is no compelling reason or substantive argument for change;
- there has been greatly increased interaction between the respective territorial authorities and the member representing the North King Country Constituency - the interaction is at a much higher level than existed prior to 1998;
- the appellant's suggestion that the North King Country Constituency ratio could be boosted by the inclusion of mesh blocks from the Waipa Constituency is rejected; and
- the reasons for the Commission's establishment of a North King Country Constituency in 1998 remain valid.

***Rotorua District Council:*** Mayor Grahame Hall spoke to a submission. Its contents may be summarised as follows:

- the Rotorua District Council supports the proposal of the Council to retain the status quo;
- the southern portion of Rotorua District is properly placed in terms of the existing constituencies and is effectively represented through the Taupo Constituency;
- the functions of regional councils are more related to land issues and justify the use of factors other than population in determining the fairness of representation of electors;
- a balance that gives recognition to the significant rural land areas that are sparsely populated while still having population as the predominant factor will give a better mix to determine fair representation;
- a proposal based almost exclusively on population would not give fair, effective and equitable representation to each constituent authority; and
- the weightings of 75% population, 12.5% area and 12.5% rateable value, first established by the Local Government Commission in 1995, remain appropriate.

***Taupo District Council:*** Mr Andrew Welch spoke to a submission. Its contents may be summarised as follows:

- the Taupo District Council supports the Council's proposed electoral arrangements;
- the Taupo District portion of the Taupo Constituency contains many resources which are of regional or national significance;
- the Council has a very heavy workload in the Taupo Constituency and any reduction in representation would seriously jeopardise effective representation;
- given regional council functions are more related to land and water issues, the use of factors other than population alone is proper and consistent;
- the Taupo Constituency has retained two members in each of the last two reviews undertaken by the Local Government Commission - the justification for this level of membership is just as applicable today; and
- the Taupo Constituency has the largest physical environment in the Region, with probably the most significant environmental resources needing regional council care and attention.

***Hauraki District Council:*** Mayor Basil Morrison spoke to a submission. Its contents, his comments and replies to questions may be summarised as follows:

- the Hauraki District Council supports the Council's proposal;
- it has proved to be advantageous for both the Matamata-Piako District and the Hauraki District to each have a constituency representative;
- a population based formula would disadvantage Hauraki District as far as regional responsibilities are concerned; and

- the issuing of mining consents and the de-commissioning of mining sites is an important concern to the people of Hauraki and requires a significant Council profile.

***Appellants - Hamilton City Council and Waikato District Council:*** Mayor Russ Rimmington spoke to a joint submission. The contents, his comments and replies to questions may be summarised as follows:

- the appellants seek to obtain some equity on the basis of population - this can be achieved with a Council of 13 members;
- Hamilton City, Waikato District and Waipa District command 58.2% of the population, 49.5% of the equalised capital value and 24.7% of the area of the Region;
- equity in membership can be achieved by transferring a portion of the Rotorua District that is in the Taupo Constituency to the South Waikato Constituency and basing representation on a 13 member Council using population alone or a 90%, 5%, 5% formula;
- the Council considered only a limited number of scenarios in reaching its decision;
- the Council's proposal, which provides for two members for the Taupo Constituency, does not provide fair representation given the population of the rest of the Region;
- the appellants contend that the Taupo area is no more delicate than the Thames-Coromandel area and other areas within the Council's jurisdiction;
- the Taupo Constituency is not unique - all of the constituencies have their particular attributes which require constant monitoring;
- the large areas of land under the control of the Department of Conservation and large areas in forestry in the Taupo Constituency, both of which are subject to strict controls, lessen the potential workload of the Council in that constituency;
- the community of interest of the portion of the Rotorua District within the region is far more closely aligned to South Waikato than to Taupo;
- population is the driving force behind councillor workload; and
- the appellants consider that a Council with a membership of 13 would work well.

Mayor Angus MacDonald made the following additional comments:

- the population difference between the constituencies proposed by the Council is too great; and
- the appellants seek better equality in representation.

***The Council in Reply:*** Mr Parker comments in reply may be summarised as follows:

- the Council's proposal provides effective representation for communities of interest - no one is being disenfranchised;
- the adjustment to the Hauraki Constituency was now a non-starter;

- the appellants are driven by a wish to even out the population within the constituencies and are working backward from a total membership of 13;
- the work done in the Taupo Constituency by organisations such as the Department of Conservation and others cannot be used as evidence for fewer members;
- the Waipa District Council is not totally supportive of the appellants; likewise the Franklin District Council has not stated its support for the appellants; and
- the Council’s proposal gives effective and fair representation.

## MATTERS FOR DETERMINATION

8 Section 101D(2) of the Act provides that “every region shall be divided into constituencies for electoral purposes”. That, therefore, is not a matter which must be determined by the Commission.

9 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 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 (1) and (3) which state:

*“(1) In determining the number and boundaries of constituencies, the regional council and, where appropriate, the Commission shall ensure-*

*(a) That the number and boundaries of constituencies will provide effective representation of communities of interest within the region; and*

*(b) That constituency 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, constituency boundaries coincide with the boundaries of one or more territorial authority districts or the boundaries of wards.”*

*“(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 on the number of councillors to be elected by the electors of any constituency, the sole criterion to be met under section 101L(3) is the provision of fair representation of the electors of the various constituencies within the region. 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 constituencies. In the opinion of the Commission population must remain 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 indicative as 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 criteria set out in the Act, provide fair representation for the electors of any constituency.
- 12 As noted above, the legislation requires the Commission to ensure that the boundaries of constituencies will provide effective representation for communities of interest within the region. It is not of course a requirement that each individual community of interest will receive separate representation by way of a separate constituency. The Commission must be convinced that the particular community of interest, or in some cases, groupings of communities of interest will require separate representation to ensure the effective representation of those communities of interest. The Commission also considers that inherent in the concept of effective representation for communities of interest is the ability of those communities to receive fair representation.
- 13 The appellants have proposed an adjustment to the existing boundary between the Taupo and South Waikato Constituencies to assist in achieving equity of representation between the constituencies. The proposed adjustment would involve transferring the portion of the Rotorua District that is currently in the Taupo

Constituency to the South Waikato Constituency. After considering the evidence presented to it, the Commission is satisfied that the community of interest of the area affected by the proposed boundary adjustment remains with the Taupo Constituency. The Commission is therefore of the view that the boundary adjustment proposed by the appellants should not proceed.

- 14 The Commission next considered whether the division of the Waikato Region into the constituencies proposed by the Council would create a situation where fair representation is possible. When the Commission considered the membership of the Council in 1995 and 1998 it applied a formula with the following weightings - population 75%, area 12.5%, rateable value 12.5%, and this formula was adopted by the Council in its review. The appellants contend that the membership of each constituency should be determined on the basis of population alone or on a formula with the following weightings - population 90%, area 5%, rateable value 5%. The following table sets out what the statistical allocation of members would be for those constituencies on a Council with a membership of 13 or 14 when applying the various formulae.

Constituency	Population only	Population only	90%/5%/5%	90%/5%/5%	75%/12.5%/12.5%	75%/12.5%/12.5%
	13 members	14 members	13 members	14 members	13 members	14 members
North Waikato	1.07	1.15	1.03	1.11	0.96	1.04
Central Waikato	0.92	0.99	0.98	1.06	1.08	1.16
Hamilton	4.15	4.47	3.89	4.19	3.50	3.77
Waipa	1.43	1.54	1.40	1.50	1.34	1.45
North King Country	0.69	0.74	0.80	0.86	0.97	1.04
Thames-Coromandel	0.94	1.01	0.99	1.07	1.06	1.14
Hauraki	0.63	0.67	0.62	0.67	0.61	0.66
Matamata-Piako	1.05	1.13	1.05	1.13	1.04	1.13
South Waikato	0.86	0.93	0.86	0.92	0.85	0.91
Taupo	1.27	1.37	1.40	1.50	1.59	1.71

- 15 The table shows that the representation of each constituency is reasonably insensitive to the application of the factors of area and rateable value. However, the Commission is of the view that the application of factors other than population alone is justified in this case, given the diverse geography of the Waikato Region. As with previous determinations for the Waikato Region, the Commission considers that weightings of population 75%, area 12.5% and rateable value 12.5% remain appropriate to take into account two measures of Council activity. The use of area as a factor enables recognition to be given to the fact that management of resource issues in less densely populated areas is 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 regulation of environmental impacts in more closely settled areas.

- 16 The appellants contend that the large areas of land administered by the Department of Conservation, and forestry plantations, should be taken into account in determining the representation of the Taupo Constituency. They argue that strict controls imposed in these areas lessen the potential workload of the Council in that constituency. The Commission is of the view that while such areas may reduce the workload of the Council to some degree, they are not unique to the Taupo Constituency and it would become a very arbitrary exercise to discount similar areas that exist across the Region.
- 17 In its 1995 and 1998 determinations, the Commission considered the regional and national significance of resources existing in the Taupo Constituency in determining the level for membership for that constituency. The Commission notes that based on the application of 75% population, 12.5% area, 12.5% rateable value to a Council with a total membership of either 13 or 14, the Taupo Constituency would be entitled to 2 members. The Commission considers that two members for the Taupo constituency remains appropriate given the relative remoteness of the constituency from the Council's headquarters and its resource management requirements.
- 18 The Commission has decided that a Council with a total of 14 members would provide the fairest representation for the electors of each constituency. The members will be elected on the following basis:

North Waikato Constituency	1 member
Central Waikato Constituency	1 member
Hamilton Constituency	4 members
Waipa Constituency	1 member
North King Country Constituency	1 member
Thames-Coromandel Constituency	1 member
Hauraki Constituency	1 member
Matamata-Piako Constituency	1 member
South Waikato Constituency	1 member
Taupo Constituency	2 members

## **DETERMINATION**

- 19 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 Waikato Region, as delineated on S.O. Plan 58086 deposited with the Chief Surveyor of the South Auckland Land District, shall be divided into 10 constituencies;

- (2) Those 10 constituencies shall be -
- (a) The North Waikato Constituency, comprising the area delineated on S.O. Plan No. 60888 deposited with the Chief Surveyor of the South Auckland Land District:
  - (b) The Central Waikato Constituency, comprising the area delineated on S.O. Plan No. 60889 deposited with the Chief Surveyor of the South Auckland Land District:
  - (c) The Hamilton Constituency, comprising the area delineated on S.O. Plan No. 59232 deposited with the Chief Surveyor of the South Auckland Land District:
  - (d) The Waipa Constituency, comprising the area delineated on S.O. Plan No. 60890 deposited with the Chief Surveyor of the South Auckland Land District:
  - (e) The North King Country Constituency, comprising the area delineated on S.O. Plan No. 60891 deposited with the Chief Surveyor of the South Auckland Land District:
  - (f) The Thames-Coromandel Constituency, comprising the area delineated on S.O. Plan No. 58092 deposited with the Chief Surveyor of the South Auckland Land District:
  - (g) The Hauraki Constituency, comprising the area delineated on S.O. Plan No. 60892 deposited with the Chief Surveyor of the South Auckland Land District:
  - (h) The Matamata-Piako Constituency, comprising the area delineated on S.O. Plan No. 60893 deposited with the Chief Surveyor of the South Auckland Land District:
  - (i) The South Waikato Constituency, comprising the area delineated on S.O. Plan No. 58094 deposited with the Chief Surveyor of the South Auckland Land District:
  - (j) The Taupo Constituency, comprising the area delineated on S.O. Plan No. 58095 deposited with the Chief Surveyor of the South Auckland Land District;
- (3) The Council shall comprise 14 members who shall be elected as follows -

- (a) one member shall be elected by the electors of the North Waikato Constituency;
- (b) one member shall be elected by the electors of the Central Waikato Constituency;
- (c) four members shall be elected by the electors of the Hamilton Constituency;
- (d) one member shall be elected by the electors of the Waipa Constituency;
- (e) one member shall be elected by the electors of the North King Country Constituency;
- (f) one member shall be elected by the electors of the Thames-Coromandel Constituency;
- (g) one member shall be elected by the electors of the Hauraki Constituency;
- (h) one member shall be elected by the electors of the Matamata-Piako Constituency;
- (i) one member shall be elected by the member of the South Waikato Constituency; and
- (j) two members shall be elected by the members of the Taupo Constituency.

20 As required by section 101L(2) of the Act, the boundaries of the above constituencies 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