



LOCAL GOVERNMENT COMMISSION

Determination

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

BACKGROUND

- 1 The Waipa 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 Waipa District Council elected at the 1998 general election comprises 12 members and the Mayor. The 12 members were elected as follows:

Cambridge Ward	3 members
Te Awamutu Ward	3 members
Takepuku Ward	2 members
Pirongia Ward	2 members
Maungatautari Ward	2 members.
- 3 Following its review, the Council proposed to retain the existing system of wards and membership.
- 4 The Council received two objections to its proposal from:
 - B E Mayo; and
 - Waipa Local Democracy.

B E Mayo objected to the variance in the ratio of Councillors to population between wards. Waipa Local Democracy objected to the proposed ward structure and the use of 1996 Census population figures, and suggested that the Single Transferable Vote (STV) electoral system apply for the next election. The Commission notes that

the application of STV to local elections is not provided for under the current legislation.

- 5 Following consideration of the objections, the Council confirmed its original proposal. Waipa Local Democracy appealed the Council's decision.

Subject Matter of Appeal

- 6 The appellant sought additional representation for the Pirongia Ward, on the basis that the population of that ward has increased significantly since the 1996 Census, and the Council's use of Census data does not take that growth into account. The appellant also requested that consideration be given to boundary alterations between wards, reflecting the growth on the periphery of the Cambridge and Te Awamutu urban areas.

Preliminary Matter for Determination

- 7 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 appellant if it wished to be heard. The Commission resolved to meet the Council and the appellant in Te Awamutu on 5 December 2000.

The Hearing

- 8 The Council was represented by the Mayor (John Hewitt) and the Chief Executive Officer (John Inglis). Waipa Local Democracy was represented by Stewart McFarlane.

The Council: The Mayor commented on the Council's proposal and the appeal. His comments and replies to questions may be summarised as follows:

- the Council undertakes a major review of the District six yearly;
- the population changes arising through subdivisions on the periphery of the urban areas may require some ward changes in the future;
- the Council's resolution to retain the status quo was unanimous;
- the parts of the District outside the two main urban areas are represented by community boards;
- the Pirongia Ward is the only ward without community board representation;
- the Council is currently processing a reorganisation proposal for the Templeview area to transfer to Hamilton City;
- the issue of an extra member for the Pirongia Ward was only raised on appeal; and

- with the possible transfer of Templeview and the predicted population changes in the District, the Council did not want to adjust its membership for just one term to take account of population increases in the Pirongia Ward.

Waipa Local Democracy: Stewart McFarlane addressed the appeal. His comments and replies to questions may be summarised as follows:

- the appellant’s arguments are focussed on the 2001 election, not the 2004 election;
- the ward boundaries proposed by the Council are accepted, provided a review of boundaries commences in 2002;
- the people of Pirongia are not requesting a community board for the area;
- Waipa Local Democracy’s objection to the Council’s initial proposal questioned the use of 1996 Census population data rather than 1999 estimates, and that issue applies to the appeal; and
- Waipa Local Democracy has approximately 60 paid-up members from across the District.

The Council in reply: The Mayor’s comments can be summarised as follows:

- because the changes derived from applying 1996 and 1999 population data seemed insignificant the Council did not change the existing membership.

MATTERS FOR DETERMINATION

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 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.”*

10 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

11 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.

12 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 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. In the end though, the final decision must be that which the Commission considers will, after having regard to the various factors set out in the Act, provide the fairest representation on balance for the electors of each ward.

- 13 In the Commission's opinion, its first responsibility, which also applied to the Council, was to decide whether or not the Waipa 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.
- 14 The Waipa District contains a mix of urban areas, rural farming areas and increasing areas of rural/residential development and lifestyle blocks. The Commission came to the view that because of the 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. In reaching its decision, the Commission noted that the Council received no objections or appeals regarding the retention of a ward system.

Appropriate Ward System

- 15 Having decided that the basis of election would be the ward system, the Commission 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 Commission 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 Commission emphasises that wards are for electoral purposes only, and that the Council is the entity to which members are elected.
- 17 In the Commission'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. The Council considers that the proposed structure takes into account the distinct communities of interest within the District.

- 19 The appellant does not object to the Council's proposal to divide the District into 5 wards for electoral purposes, but does suggest ward boundary changes to take into account growth on the periphery of the Te Awamutu and Cambridge urban areas.
- 20 Having considered the evidence presented to it at the hearing of the appeal, the Commission 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 Commission considered the distinct nature of each community and the geographical characteristics of the District.

Number of Members

- 21 Having decided that there will be 5 wards, the Commission is then required to determine what would be fair representation for the electors of the various wards.
- 22 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.
- 23 Set out below are two 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 11 (excluding the Mayor) as proposed by the Council, or with a total membership of 12 or 13 for comparison. Table 2 shows the same information taking into account the three factors of population weighted at 75%, rateable land area weighted at 12.5%, and area weighted at 12.5%, as were applied by the Council. Both tables show the results of applying 1996 Census population figures and the 1999 estimated resident population figures.

Table 1

Ward	1996 Census Population	11 members	12 members	13 members	1999 estimated Population	11 members	12 members	13 members
Cambridge	11101	3.14	3.43	3.72	11600	3.16	3.45	3.74
Te Awamutu	11458	3.24	3.54	3.83	11600	3.16	3.45	3.74
Kakepuku	4218	1.20	1.30	1.41	4130	1.13	1.23	1.33
Pirongia	7182	2.03	2.22	2.40	8000	2.18	2.38	2.58
Maungatautari	4894	1.39	1.51	1.64	5020	1.37	1.49	1.61
TOTAL	38853	11	12	13	40350	11	12	13

Table 2

Ward	1996 Census Popn.: Factor Value	11 member s	12 members	13 membe rs	1999 estimated Popn.: Factor Value	11 members	12 members	13 members
Cambridge	24.15	2.66	2.90	3.14	24.28	2.67	2.92	3.16
Te Awamutu	24.57	2.70	2.95	3.19	24.02	2.64	2.88	3.12
Kakepuku	14.30	1.57	1.72	1.86	13.83	1.52	1.66	1.80
Pirongia	20.27	2.23	2.43	2.64	21.27	2.34	2.55	2.76
Maungatautari	16.71	1.84	2.00	2.17	16.60	1.83	1.99	2.16
TOTAL	100	11	12	13	100	11	12	13

- 24 Given the diversity of the District, the Commission has given consideration to applying factors of rateable land value and area, in addition to that of population as a means of achieving fair representation. Given the significant proportion of rural land in the District, the Commission considers that the weightings of 75% population, 12.5% rateable land value and 12.5% area are appropriate as a means of achieving fair representation for the electors of each ward. 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 people-based activities which require the provision of services and infrastructure and the regulation of development in more closely settled areas. The Commission considers that, in this case, applying the formula achieves a greater degree of fairness in representation for the electors of each ward than is achieved through the application of population alone.
- 25 In deriving the proposed representation for each ward, the Council applied population figures drawn from the 1996 Census. While the Act provides that the Council may use Census data, the Commission is of the view that if more recent population estimates are available they should be drawn on in the decision-making process.
- 26 In this case the Council, appellant and the Commission have had access to the 1999 estimated residential population data supplied by Statistics New Zealand. While the Council argued that applying the 1999 figures would have resulted in an insignificant change to ward representation, the Commission notes that the Pirongia Ward would have a statistical entitlement to 3 members under two of the three membership scenarios outlined in Table 2 when applying the 1999 estimated population figures.
- 27 The Commission also notes that the “12 members” and “13 members” columns would indicate a Council membership of 13 when rounding of fractions is applied, and the “11 members” column would indicate a membership of 12 members. In the

view of the Commission, all three options would provide a reasonable degree of fairness in representation for the electors of each ward.

- 28 However, having considered all aspects of the matter of representation, the Commission has concluded that the membership of the Council should total 12 members and the Mayor, taking into account population, rateable value and area on the basis outlined above.
- 29 In reaching its decision, the Commission was satisfied that at this time the provision of two members to represent the Pirongia Ward will provide fair representation for the electors of that ward. If the population growth in that ward and other wards of the District continues over the next triennium, the Council will need to carefully review its representation and ward boundaries when initiating the next statutory review.

GENERAL COMMENTS

- 30 The Council's decision to retain the current electoral arrangements took into account the potential transfer of the Templeview area from the Waipa District to Hamilton City. In the view of the Commission, the proposed transfer should have formed no part of the Council's consideration as until the statutory processes relating to that proposal are worked through the outcome of the proposal is unknown. If the proposal does proceed, the Council may need to consider alternative models of representation when commencing its next statutory review.

DETERMINATION

- 31 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 Waipa District as delineated on S.O. Plan 58024 deposited with the Chief Surveyor of the South Auckland Land District, shall be divided into 5 wards;
 - (2) Those 5 wards shall be -
 - (a) The Cambridge Ward, comprising the area delineated on S.O. Plan No. 59229 deposited with the Chief Surveyor of the South Auckland Land District:

- (b) The Te Awamutu Ward, comprising the area delineated on S.O. Plan No. 59230 deposited with the Chief Surveyor of the South Auckland Land District:
 - (c) The Kakepuku Ward, comprising the area delineated on S.O. Plan No. 58026 deposited with the Chief Surveyor of the South Auckland Land District:
 - (d) The Pirongia Ward, comprising the area delineated on S.O. Plan No. 58027 deposited with the Chief Surveyor of the South Auckland Land District:
 - (e) The Maungatautari Ward, comprising the area delineated on S.O. Plan No. 58025 deposited with the Chief Surveyor of the South Auckland Land District;
- (3) The Council shall comprise the Mayor and 12 members who shall be elected as follows -
- (a) three members shall be elected by the electors of the Cambridge Ward;
 - (b) three members shall be elected by the electors of the Te Awamutu Ward;
 - (c) two members shall be elected by the electors of the Kakepuku Ward;
 - (d) two members shall be elected by the electors of the Pirongia Ward; and
 - (e) two members shall be elected by the electors of the Maungatautari Ward.

32 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 LOCAL GOVERNMENT COMMISSION

Sir Ross Jansen (Chairman)
Barbara Durbin (Commissioner)

Bruce Anderson (Commissioner)

27 March 2001