



## LOCAL GOVERNMENT COMMISSION

### Determination

**of the membership and basis of election for the  
general election of the Wairoa District Council to be  
held on 9 October 2004**

#### BACKGROUND

- 1 The Wairoa District Council (“the Council”) undertook a review of the membership and basis of election of the Council under section 19H of the Local Electoral Act 2001 (“the Act”). On 22 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 nine members and the Mayor. The nine members were elected as follows:

Mahia Ward	1 member
Waikaremoana-Ruakituri Ward	1 member
Mohaka-Waiiau Ward	1 member
Frasertown Ward	1 member
Tuhara-Nuhaka Ward	1 member
Wairoa Ward	4 members.
- 3 Community boards are not currently constituted in the District.
- 4 Following its review, the Council proposed that the Council comprise the Mayor, and eight members elected at large.
- 5 The Council did not pass a resolution regarding community boards as part of its initial or final proposals, despite this being a statutory requirement of territorial authorities when undertaking their representation reviews. The Council advised the Commission that it did not address the issue of community boards because they are not currently constituted in the District.
- 6 The Council received 14 submissions to its initial proposal. The submissions covered a range of issues including:
  - the Council’s proposal was supported

- the Council should comprise six members (and the Mayor) elected at large
  - the Council should comprise four members (and the Mayor) elected at large
  - the Council should have four members elected from a rural ward and four members elected from an urban ward to ensure effective representation of rural and urban communities of interest.
- 7 Following consideration of the submissions, the Council amended its initial proposal. The final proposal was that the Council comprise the Mayor, and six members elected at large.
- 8 Two objections and one appeal were received against the Council's final proposal. The subject matter of the objections and appeal included the following:
- the Council's initial proposal (of the Mayor, and eight members elected at large) should be implemented
  - to ensure effective representation of rural and urban communities of interest the Council should have a rural ward and an urban ward.

## Hearing

- 9 The Commission, on receiving advice of the objections and appeal, decided that it would meet with the Council, the objectors and appellant if they wished to be heard. A quorum of the Commission, comprising Commissioners Linda Constable and Kerry Marshall, met with the Council, objectors and appellant in Wairoa on 18 December 2003.
- 10 The Council, both objectors and the appellant appeared before the Commission at the hearing. The Council outlined its proposal, and the objectors and appellant 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 is the provision of effective representation of the various communities of interest within the District. The Commission must determine which communities of interest or groupings of communities of interest require

representation. If wards are considered to be appropriate, then any particular ward may encompass one or more communities of interest.

- 14 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.
- 15 The Council's initial and final proposals both proposed an at-large basis of election. Of the 14 submissions to the Council's initial proposal, 13 were in favour of an at-large basis of election. Of the two objections and one appeal to the final proposal, two were in favour of the at-large basis of election. It is clear, therefore, that a significant majority of those who made submissions to the Council's initial and final proposals are in favour of an at-large basis of election.
- 16 The single appellant sought the division of the District into two wards – an urban ward encompassing the Wairoa township and a rural ward encompassing the rest of the District. The appellant proposed that each ward should elect the same number of members, reflecting the similar populations living in the urban and rural parts of the District.
- 17 A ward structure has applied for the elections of the Wairoa District Council since its constitution in 1989. The Council gave the following reasons in the public notice of its initial proposal for deciding to move to an at-large basis of election:
- *Enhancement of Democracy – All electors will get the opportunity to vote for a maximum of 8 of the candidates offering themselves for election. (In the past some wards have only had one nominee and no election.)*
  - *District unity – Whilst there are issues of local interest the community has many more issues that are of general interest and best solved on a community wide basis*
  - *Clarity of Purpose – Without wards the onus of representation Councillors are free to focus on issues from a District wide perspective*
  - *Administrative Efficiency – Council believes that 8 Councillors will be more efficient in terms of decision-making than the current 9 Councillors*
  - *Electoral Efficiency – the electoral process is both easier to understand and administer with no wards.*
- 18 At the Commission's hearing, the District's Mayor advised that the Council had considered the option of election by way of two wards, involving a rural ward and an urban ward, as was proposed by the appellant. The Mayor advised that the Council, in deciding not to proceed with such a ward structure, was concerned that it could reintroduce the parochialism and rivalry

that existed prior to the amalgamation of the Wairoa County Council and the Wairoa Borough Council.

- 19 In considering the appropriate basis for election of the Council the Commission took into account:
- the ongoing trend of population decline in the District (The District's usually resident population at the time of the 2001 Census was 8916, compared with 9900 in 1996 and 10125 in 1991)
  - the rural nature of the District – the Wairoa urban community has a strong focus on rural servicing and is a focal point for the rural community
  - that in five of the six existing wards electors may currently only vote for one member of the Council.
- 20 After considering the information presented to it, and noting the strong support amongst submitters for an at-large basis of election, the Commission is satisfied that an at-large basis of election would provide effective representation for communities of interest in the District. The Commission considers that the urban and rural areas of the District do not require separate representation in order to provide effective representation for those areas.

### **Appropriate Membership**

- 21 Having decided that the electors of the District as a whole would elect the Council, the only other matter to be determined by the Commission relating to the Council's representation is the number of councillors to be elected to the Council.
- 22 Excluding the Mayor, the Council currently has nine members. The Council's proposal is for a six-member Council (excluding the Mayor) while the two objectors each seek an eight member Council (excluding the Mayor).
- 23 With a six member Council, each member would represent approximately 1486 residents. Taking into account the small, and declining population of the District (Wairoa was ranked 64<sup>th</sup> out of 74 territorial authorities on the basis of population at the 2001 Census) the Commission considers that a Council comprising six members and the Mayor will provide effective representation and governance for the District.

### **Community Boards**

- 24 As noted above, the Council did not undertake a review of community boards as required by section 19J of the Act. The Commission considers that this was a serious omission of the Council, and that the Council will need to put processes in place to ensure that all statutory requirements are complied with when undertaking future representation reviews.
- 25 Community boards are not currently constituted in the District. None of the submitters to the Council's initial or final proposals sought the constitution of community boards. It is, of course, possible that the issue was not raised in

submissions because interested persons were not informed through the Council's public notices of their right to submit on community board issues.

- 26 The Commission considers that the Council should be able to provide effective local governance across its District. Therefore, it is of the view that the constitution of community boards would not be appropriate at this time.

## **DETERMINATION**

- 27 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 Wairoa District as delineated on S.O. Plan 10547 deposited with Land Information New Zealand, shall not be divided into wards;
- (2) The Council shall comprise the Mayor, and 6 members who shall be elected by the electors of the District as a whole.

## **THE LOCAL GOVERNMENT COMMISSION**

Linda Constable (Commissioner)  
Kerry Marshall (Commissioner)

7 April 2004