



LOCAL GOVERNMENT COMMISSION

Determination

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

BACKGROUND

1 The Waitakere City 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 Waitakere City Council elected at the 1998 general election comprises 14 members and the Mayor. The 14 members were elected as follows:

Massey Ward	4
Waitakere Ward	3
Henderson Ward	3
New Lynn Ward	4

3 Following its review, the Council proposed boundary alterations to be made to each of the wards and for membership to be allocated as follows:

Massey Ward	4
Waitakere Ward	2
Henderson Ward	4
New Lynn Ward	4

4 The proposed boundary alterations were as follows:

- Henderson and Massey Wards: Inclusion of the area between Rathgar Road and Lincoln Road in the Henderson Ward.

-

- Henderson and New Lynn Wards: Inclusion of the area west of Hepburn Road in the New Lynn Ward
 - Henderson and Waitakere Wards: Inclusion of the Henderson Heights area in the Henderson Ward.
 - New Lynn and Waitakere Wards: Inclusion of the Glen Eden Heights area in the New Lynn Ward.
- 5 The Council received 66 objections and submissions on this proposal. Some submissions supported the proposal while several of the objections were in the form of petitions signed by a number of residents of the Waitakere Ward. Following consideration of the objections the Council resolved to revert to the status quo.
- 6 Counter-objections to the council's decision were lodged by:
- W H and C P Horning
 - B Postlewaight
 - J Price
 - J Hubscher
 - Henderson Community Board
 - Councillors, Corban, Stanic, Freeth, Price, Riddell, Davies and Dallow
 - D Freeth
 - J Clift
 - Te Atatu Residents' & Ratepayers Association

Generally, the counter-objections were seeking electoral arrangements based on the council's original proposal.

- 7 A further counter-objection was received from E Grimmer, however it was lodged after the closing date for counter-objections. The Commission decided that it could not consider this counter-objection.
- 8 The Commission also received a request from Brenda Brady on behalf of herself and the Sunnyvale Ratepayers and Residents Association under section 101K(2) of the Act to appear before a hearing of the Commission. The Commission agreed to her request.

Preliminary Matter for Determination

- 9 The Commission, on receiving advice of the counter-objections, resolved that before making a determination of the counter-objections it would meet with the Council and the counter-objectors if they wished to be heard. The Commission resolved to meet the Council and the counter-objectors at the Waitakere City Council offices on 30 January 2001.

The Hearing

10 The Council was represented by the Mayor, Bob Harvey, and Councillor Penny Hulse. The following attended the hearing to speak to their counter-objections or representations:

- D Freeth
- Henderson Community Board, represented by Brian Slater
- Te Atatu Residents Association, represented by Jeff Nielsen and Elizabeth Grimmer
- Councillor Corban
- Councillor Price
- John Hubscher, who also spoke on behalf of Jenine Clift
- W H Horring
- Sunnyvale Ratepayers and Residents Association represented by Barry Shaw, who also spoke on behalf of Brenda Brady.

The Council: The Council's representatives comments may be summarised as follows:

- the process the Council went through was outlined;
- the Council established a working party to carry out the initial stages of the review;
- the working party specifically considered community of interest and looked at a variety of factors by which communities of interest could be measured;
- the working party in its recommendations identified four boundary alterations and also made a strong recommendation that ward and community board boundaries should conform;
- the Council adopted the working party's recommendations and issued a discussion document based on those recommendations;
- 63 submissions were received in response to the discussion document, 39 of which favoured the status quo. The remaining submissions supported four other options or variations of options;
- a clear connection had been made by many making submissions that boundary changes could result in a decrease of membership for the Waitakere Ward;
- despite the feedback the Council adopted the working party's option;
- at the formal stage of the process there were 69 objections or submissions, along with a petition signed by 225 people seeking the retention of the status quo;
- of the 69 objections or submissions, 37 opposed the changes. Five of those were from ratepayer groups;
- after considering the objections the Council resolved to retain the status quo; and
- the final decision was as a result of overwhelming feedback from the public to retain the status quo.

Daphne Freeth: Her comments may be summarised as follows:

- there was a poor understanding by signatories of petitions in the Waitakere Ward of the issues involved;
- Councillors take an oath to act in the best interests of the City not wards;
- all members of the Council would act in the best interests of the environment of the Waitakere Ranges, not just the ward councillors;
- the Waitakere Ward is over-represented compared to other wards;
- the Waitakere Ward contains a substantial area of publicly owned land over which the City Council has little jurisdiction;
- the Waitakere Ward would be adequately represented by two members; and
- the proposed boundary changes would better reflect communities of interest.

Henderson Community Board: The Board's comments may be summarised as follows:

- the proposed boundary changes better reflect community of interest;
- communities should follow ward boundaries to avoid confusion; and
- the proposed change to the boundary between the Henderson and Massey Wards or between the Henderson and New Lynn Wards did not attract opposition and could be proceeded with without affecting the Waitakere Ward.

Te Atatu Residents Association: The Association's comments may be summarised as follows:

- the council's original proposals are fairer in terms of representation and better reflect community of interest;
- the Lincoln, Sturges and MacLaren Park areas all have Henderson as their focus;
- each of those areas are totally urban and have different needs to the rural Waitakere Ward;
- the areas are differentiated in the district plan;;
- at the very least the changes in the Lincoln Road and Hepburn Road areas should be made; and
- the problem of servicing the Waitakere Ward because of its size is exaggerated.

Councillor Corban: His comments can be summarised as follows:

- against the rapid urban growth taking place in Waitakere City it was wrong for the Council to opt for the status quo;
- the Council's working party had carefully considered a variety of options;
- the working party had placed particular emphasis on achieving population balance between the three urban wards in both size and representation;
- 68% of the area of the Waitakere Ward is either regional park or water catchment;
- representation in the Waitakere ward is supplemented by a strong network of ratepayers and community groups and a strong community board;
- the proposed boundary changes will better reflect actual communities of interest;
- in 1989 to achieve balance between wards a large part of the Henderson area was included in the Massey Ward . This is now an anomaly; and

- the Council's final decision was determined by the Mayor's casting vote. That vote should have been used to preserve the status quo, i.e. the Council's earlier proposal.

Councillor Price: Her comments may be summarised as follows;

- the current representation arrangements are unfair to the Henderson Ward which has less representation per person than the other wards;
- the situation is also unfair to the New Lynn and Massey Wards as the representation is weighted in favour of the Waitakere Ward;
- the Hauraki Gulf Ward in Auckland City with similar problems to the Waitakere Ward and a large area to be serviced has only one member;
- Option 5A, which provided for a 5 ward structure was the most interesting option. It reflected the roading networks and communities of interest. It was not the preferred choice of many submitters but was not rejected as a solution for the future;
- at some stage a change to the ward structure is inevitable; and
- although her preferred choice is option 1B, a move to option 5A would resolve the current issue over representation of the Waitakere Ward and assist better representation for the future.

John Hubscher: His comments may be summarised as follows:

- the Henderson Ward is under-represented in comparison to other wards;
- Bruce MacLaren Park is populated by many ethnic groups. These groups have little in common with residents of the Waitakere;
- the Sturges Road area has more in common with Henderson; and
- most of the Waitakere Ward is very rural. Those parts that are not should be included in other wards; and

Jennie Clift: Speaking on her behalf, Mr Hubscher stated in summary that:

- the focus of the MacLaren Park area is Henderson and the area has more in common with Henderson than it does with Waitakere; and
- the problems of the area are largely urban and the area would benefit from association with another urban area.

W H & C P Horring: Their comments were that:

- they supported the boundary alterations originally proposed by the Council;
- the Council had not listened to the views of those who had made submission in support of those boundary alterations; and
- the boundary alterations are supported by changes in urban development over recent years.

Sunnyvale Ratepayers and Residents Association: Mr Shaw's comments may be summarised as follows:

- the Association supported the transfer of the Lincoln area to the Henderson Ward as this would better reflect the community of interest of the area;
- the Association opposed the cutting up of the Waitakere Ward;
- it understands that much Council funding is allocated to wards on a population basis and removing areas from the ward would mean that some works would be able to be completed; and
- the councillors representing the Waitakere Ward have considerable distances to travel and the area is in need of improved services.

The Council in reply: .The Council’s representatives stated that:

- it was true that a large proportion of the Waitakere Ward is owned by the Auckland Regional Council and is largely uninhabited. However this does decrease the councillor’s workload. There are a number of rating categories, a backlog of infrastuctural development and a considerable length of unsealed road;
- settlements are long distances apart; and
- the Waitakere Ranges are a vital asset to the Auckland Region. This brought a number of challenges, for instance in relation to subdivision, where developers sometimes attempt to push the boundaries of what is acceptable.

MATTERS FOR DETERMINATION

- 11 The statutory provisions in respect of these appeals 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.”*

- 12 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

13 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.

14 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, if other factors are applied, different weightings can be applied to 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.

- 15 In the Commission's opinion, its first responsibility, which also applied to the Council, was to decide whether or not the 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.
- 16 Waitakere City contains a large population and a number of different communities of interest. The Commission came to the view that because of the number and diversity of the communities of interest in the City, effective representation of the various communities of interest could only be by councillors being elected on a ward basis.

Appropriate Ward System

- 17 Having decided that the basis of election will be a 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 City. The Commission does not consider that section 101L envisages that every individual community of interest requires separate representation. Its sole requirement in this regard is that the representation of communities of interest must be effective.
- 18 The Commission emphasises that wards are for electoral purposes only, and that the Council is the entity to which members are elected.
- 19 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.
- 20 The issue in this case is a set of boundary alterations between wards and whether they are required to ensure effective representation of the communities of interest concerned. A related issue is whether the boundaries adequately reflect communities of interest.
- 21 There was a significant number of appeals requesting change to boundaries based on changing communities of interest and urban growth. There had been at the previous stage of the review a significant number of objections against changing boundaries. The overall impression gained by the Commission is therefore mixed.
- 22 The Commission examined the documents sent to it by the Council as required by section 101J(7) of the Act. The objections to the boundary alterations that had been made to the Council include some from organisations and individuals located in or near the areas proposed for change. Another affected organisation, the Maclaren Park Residents and Ratepayers Association stated that it did not wish to express a view on the changes.
- 23 Overall the Commission was left with the impression that there is no clear consensus for change.
- 24 The Commission also did not feel that it had been presented with sufficient evidence that the current arrangements did not provide for effective representation of either the areas proposed for change or the City in general, or that the proposed arrangements would increase that effectiveness.

- 25 The Commission has therefore decided that the existing ward boundaries should remain for the 2001 elections on the basis that those boundaries will provide effective representation of communities of interest.
- 26 This does not mean, however, that ward boundaries are forever immovable. It is quite possible that at some stage urban growth or recognised changes in communities of interest will require changes to ward boundaries. This should be borne in mind by the many objectors whose goal for retaining the existing boundaries appeared to be the retention of three members for the Waitakere Ward. If the communities of interest or spread of population within the City change, reallocation of membership might be an inevitable result.

Number of Members

- 27 Having decided that there will continue to be four wards, the Commission is then required to determine what would be fair representation for the electors of those wards.
- 28 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. However, inherent in the decision to create an area as a ward is a requirement that the ward be represented by at least one member.
- 29 The Act does not specify what weightings are to be given to particular factors, however it does require the allocation of members to wards to result in fair representation for each ward. The Council used weightings of 90% for population and 10% for area for determining the number of members to be allocated to wards. The Commission agrees that this is an appropriate approach for Waitakere City. Some objection to the use of area as a factor was expressed in appeals. However, this is not unusual in a district the nature of Waitakere. The Act contemplates such a situation.
- 30 Set out below is a table showing the number of members that each of the wards would be entitled to using total numbers of members ranging from 12 to 16.

Ward	Factor Value	Members			
		12	13	14	15
Massey	28.86	3.46	3.75	4.04	4.33
Henderson	21.88	2.63	2.84	3.06	3.28

New Lynn	27.62	3.31	3.59	3.87	4.14
Waitakere	21.64	2.60	2.81	3.03	3.25

- 31 As can be seen from the above table, the application of ward population shows that fairness can be achieved between the representation of each ward with a Council of 14 members. Therefore, having considered all aspects of the matter of representation, the Commission has concluded that the membership of the Council should total 14 members and the Mayor, taking into account the population and area of each ward on the basis outlined above, with members being allocated to wards as proposed by the Council.

DETERMINATION

- 32 Under section 101K of the Act, the Commission, determines that for the general election of the Waitakere City Council to be held on 13 October 2001 -
- (1) Waitakere City, as delineated on SO Plan No 63494 deposited with the Chief Surveyor of the North Auckland Land District, shall be divided into 4 wards:
 - (2) those 4 wards shall be:
 - (a) the Massey Ward, comprising the area delineated on SO Plan No 63526 deposited with the Chief Surveyor of the North Auckland Land District:
 - (b) the Waitakere Ward, comprising the area delineated on SO Plan No 63528 deposited with the Chief Surveyor of the North Auckland Land District:
 - (c) the Henderson Ward, comprising the area delineated on SO Plan No 63527 deposited with the Chief Surveyor of the North Auckland Land District:
 - (d) the New Lynn Ward, comprising the area delineated on SO Plan No 63529 deposited with the Chief Surveyor of the North Auckland Land District:
 - (3) The Council shall comprise 14 members of whom:
 - (a) Four members shall be elected by the electors of the Massey Ward; and
 - (b) Three members shall be elected by the electors of the Waitakere Ward; and
 - (c) Three members shall be elected by the electors of the Henderson Ward; and
 - (d) Four members shall be elected by the electors of the New Lynn Ward.

33 As required by section 101L(2) of the Local Government Act 1974, 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