



LOCAL GOVERNMENT COMMISSION

Determination

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

BACKGROUND

- 1 The Waitaki 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 5 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 15 members and the Mayor. The 15 members were elected as follows:

| | |
|-----------------|------------|
| Ahuriri Ward | 2 members |
| Corriedale Ward | 4 members |
| Oamaru Ward | 7 members |
| Waihemo Ward | 2 members. |
- 3 Elections were held for two community boards in the District at the 2001 general election. The boards and their membership are:
 - The Ahuriri Community Board – six elected members and two appointed members
 - The Waihemo Community Board – six elected members and two appointed members.
- 4 Following its review, the Council proposed the following electoral arrangements as its initial proposal:

Council

The Council would comprise the Mayor, and 10 members elected as follows:

| | |
|-----------------|-----------|
| Ahuriri Ward | 1 member |
| Corriedale Ward | 2 members |
| Oamaru Ward | 6 members |
| Waihemo Ward | 1 member. |

Communities

The two existing communities – Ahuriri and Waihemo – would be retained. The community board for each community would comprise five elected members and one appointed member. The area of each community board would not be subdivided for electoral purposes.

- 5 The Council received four submissions to its initial proposal. The submissions covered a range of issues including:
 - The reduction in the number of councillors was opposed
 - The communities of interests of the rural wards are quite different from those of the more urbanised wards
 - Representation should reflect the size of the area as well as the population
 - Ahuriri and Corriedale wards should each have a second councillor
 - The Council's proposal regarding community boards is supported
 - Two community boards should cover the entire rural area of the District
 - The Council should be reduced to 8 members (Oamaru Ward – 4 members, Corriedale Ward (including the Weston area) – 2 members, Ahuriri Ward – 1 member, Waihemo Ward – 1 member), with community boards constituted across the District
 - The Council's proposal for six urban members and four rural members would not provide effective representation for the rural parts of the District.
- 6 Following consideration of the submissions, the Council confirmed its initial proposal as its final proposal.
- 7 One appeal was received against the Council's final proposal. The subject matter of the appeal included the following:
 - The Council's proposal is top-heavy in favour of the urban area
 - The Council should be reduced to 8 members (Oamaru Ward – 4 members, Corriedale Ward (including the Weston area) – 2 members, Ahuriri Ward – 1 member, Waihemo Ward – 1 member)
 - Community boards should be constituted across the District – with the Ahuriri Community Board area expanded to take in that part of the Corriedale area located in the Waitaki Valley; the balance of the Corriedale area plus the Weston area to form a new board; the Oamaru

area (excluding Weston) to form a new board; and the Waihemo Community Board retained.

Hearing

- 8 The Commission, on receiving advice of the appeal, decided that it would meet with the Council and the appellant if they wished to be heard. A quorum of the Commission, comprising Commissioners Linda Constable and Kerry Marshall, met with the Council and the appellant in Oamaru on 26 January 2004.
- 9 The Council and the appellant appeared before the Commission at the hearing. The Council outlined its proposal, and the appellant spoke to his submission.

MATTERS FOR DETERMINATION

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

- 11 When applying the provisions 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

- 12 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.
- 13 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).*

- 14 The Commission notes that any preliminary ward arrangements determined to reflect communities of interest might 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.
- 15 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.
- 16 The Waitaki District covers a large and diverse area. It includes the significant urban area of Oamaru, a number of townships, and the large rural area in the southern part of the Waitaki River catchment and extending beyond the township of Palmerston to the south. The Commission came to the view that because of the size and diversity of the District, effective representation of communities of interest could only be achieved by councillors being elected on a ward basis. In reaching this decision the Commission noted that there were no submissions or appeals objecting to this element of the Council's proposal.

Appropriate Ward System and Membership

- 17 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.

- 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 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.
- 20 The Council has proposed that the existing four-ward arrangement of the District be retained. In its public notice the Council noted that the representation of the Ahuriri Ward falls outside the population per member ratio derived under section 19V(2) of the Act. However, it stated that the Ahuriri Ward warranted a single member because:
- *This ward represents a separate and distinct community of interest centred on the Waitaki Valley*
 - *It is isolated from other communities in the district*
 - *A single member will provide effective representation for this community of interest.*
- 21 The first consideration of the Commission with respect to the ward arrangements proposed by the Council was whether the area encompassed by the proposed Ahuriri Ward constitutes an isolated community requiring specific representation. In considering this matter the Commission noted that the proposed Ahuriri Ward covers a large area, which at its northern periphery is a considerable distance to the Council's Oamaru offices. However, the Commission also noted that most of the population resident in the proposed ward is located in the southern area of the ward, and that the network of principal roads in the proposed ward is generally satisfactory.
- 22 The Commission considers while the proposed Ahuriri Ward would cover a large, and relatively lightly populated area, it does not constitute an isolated community requiring specific representation. In reaching this decision the Commission has 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
 - 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 or reliability problems
 - Isolation must relate to the ability of a community to receive appropriate representation by elected members

- Isolation may justify one member instead of no separate representation for a community but caution would need to be applied in allocating additional members on that basis.

- 23 The concern of the appellant relating to the wards proposed by the Council was that the Weston area should transfer to the Corriedale Ward. In this regard the Commission noted that the Weston area was first included in the Oamaru Ward for the purposes of the 1995 election of the Council. It further noted that this issue was specifically considered by the Commission in its determination of the Council's representation arrangements for the 2001 elections. At that time the Commission was satisfied that the community of interest of the Weston area was with the Oamaru urban area and that it should remain part of the Oamaru Ward. The Commission remains satisfied that effective representation of the Weston area would be achieved through its inclusion in a ward encompassing the Oamaru urban area.
- 24 Having determined that the Ahuriri area is not an isolated community requiring specific representation, and having dealt with the ward suggestion raised by the appellant, the Commission then considered it necessary to make some modifications to the Council's four-ward proposal to ensure that the requirements of section 19V(2) of the Act were met.
- 25 The Commission decided that the required modifications to the Council's ward proposal should be the minimum necessary to achieve compliance with section 19V(2). In this regard the Commission decided to unite the Ahuriri and Corriedale Wards to form an Ahuriri-Corriedale Ward. The Ahuriri and Corriedale areas are both rural in nature, and in the Commission's view the grouping together of these areas will continue to provide effective representation for communities of interest within those areas. It has also been necessary to transfer one meshblock – 2831000 – from the existing Oamaru Ward to the new Ahuriri-Corriedale Ward to achieve compliance with section 19V(2).
- 26 With respect to the other wards of the District, 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.
- 27 Applying the ward changes outlined above to a total Council of 10 members (excluding the Mayor) enables the requirements of section 19V(2) to be met, as follows:

| Ward | Members | Population per member | Ward Population (2001 Census) |
|--------------------|---------|-----------------------|-------------------------------|
| Ahuriri-Corriedale | 3 | 1809 | 5427 |
| Oamaru | 6 | 2085 | 12510 |
| Waihemo | 1 | 2151 | 2151 |

(The population per member falls within the range of 2009+/-10% (1808 to 2210). The District's total usually resident population at the time of the 2001 Census was 20088.)

- 28 The Commission considered the appellant's proposition that the Council should comprise eight members (excluding the Mayor) and came to the view that a Council of 10 members (excluding the Mayor) is necessary at this time for the effective governance of the District. In reaching this decision the Commission took account of the significant reduction in the number of members proposed by the Council, the additional governance workload of the Council in dealing with the requirements of new legislation such as the Local Government Act, the Gambling Act and the Prostitution Reform Act, as well as other important local issues.
- 29 Having considered all aspects of the matter of Council representation the Commission has concluded that the membership of the Council should total 10 members elected from three wards, and the Mayor.

Community Boards

- 30 The Council proposed that the existing Ahuriri and Waihemo Community Boards should be retained. The appellant considers that community boards should be constituted across the District – with the Ahuriri Community Board area expanded to take in that part of the Corriedale area located in the Waitaki Valley; the balance of the Corriedale area plus the Weston area to form a new board; the Oamaru area (excluding Weston) to form a new board; and the Waihemo Community Board retained. In addition to the appellant, two other submitters to the Council's initial proposal sought community boards across the District.
- 31 The Commission is satisfied that the existing Ahuriri and Waihemo Community Boards continue to fulfil a useful local governance function and has therefore determined the Ahuriri and Waihemo areas should continue to have community board coverage.
- 32 The Commission is not satisfied at this time that community boards should be constituted for the other areas of the District. Most of the residents of the Corriedale Ward and the residents of the Oamaru Ward have good access to Council services and facilities, and the Commission is of the view that the local issues requiring elected representative input can be effectively dealt with at the Council level. The Commission received no information indicating a strong level of community support for the establishment of new community boards in the District.
- 33 The Council proposed that the Ahuriri and Waihemo Community Boards should each have five elected members and one appointed member. The Commission considers that this will provide effective representation for the residents of each community.
- 34 The Council did not propose that the communities should be subdivided for electoral purposes. The Commission is satisfied that subdivisions of the communities are not required for effective representation.

GENERAL COMMENTS

35 The Commission encourages territorial authorities that have community boards constituted within their areas to review the functions delegated to community boards. In this regard the Council advised the Commission that it is committed to reviewing the delegations to its community boards. To maximise the effectiveness of the contribution of community boards to local governance the Commission is of the view that territorial authorities should consider providing the boards with a comprehensive set of delegated functions. The Commission considers that three current examples of effective community board delegations are:

- The delegations for the Otago Peninsula Community Board, as detailed in the Commission's determination of 11 October 2001, and
- The delegations issued by the Thames-Coromandel District Council and Christchurch City Council for the community boards constituted in their districts.

DETERMINATION

36 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 Waitaki District as delineated on S.O. Plan 23106 deposited with Land Information New Zealand, shall be divided into three wards;
- (2) Those three wards shall be -
 - (a) The Ahuriri-Corriedale Ward, comprising the area delineated on S.O. Plan No. 334649 deposited with Land Information New Zealand;
 - (b) The Oamaru Ward, comprising the area delineated on S.O. Plan No. 24253 deposited with Land Information New Zealand;
 - (c) The Waihemo Ward, comprising the area delineated on S.O. Plan No. 24254 deposited with Land Information New Zealand;
- (3) The Council shall comprise the Mayor and 10 members who shall be elected as follows -
 - (a) three members shall be elected by the electors of the Ahuriri-Corriedale Ward;
 - (b) six members shall be elected by the electors of the Oamaru Ward; and
 - (c) one member shall be elected by the electors of the Waihemo Ward.

- (4) There shall be two communities as follows:
 - (a) The Ahuriri Community, comprising the area as delineated on S.O. Plan No. 334650 deposited with Land Information New Zealand; and
 - (b) The Waihemo Community, comprising the area of the Waihemo Ward.

- (5) The membership of the community board for each community shall be as follows:
 - (a) The Ahuriri Community Board shall comprise five elected members and one member of the Council representing the Ahuriri-Corriedale Ward and appointed to the community board by the Council; and
 - (b) The Waihemo Community Board shall comprise five elected members and one member of the Council representing the Waihemo Ward and appointed to the community board by the Council.

37 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

Linda Constable (Commissioner)
Kerry Marshall (Commissioner)

7 April 2004