



LOCAL GOVERNMENT COMMISSION

Determination

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

BACKGROUND

- 1 The Wellington 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 Wellington City Council elected at the 1998 general election comprises 18 members and the Mayor. The 18 members were elected as follows:

| | |
|---------------|------------|
| Northern Ward | 4 members |
| Onslow Ward | 2 members |
| Western Ward | 2 members |
| Lambton Ward | 3 members |
| Eastern Ward | 4 members |
| Southern Ward | 3 members. |

- 3 The Council received four objections to its proposal. The objections were from:
 - Mr Andy Foster;
 - Mr A B Arthur;
 - Mr David Butler; and
 - Mount Victoria Residents’ Association Inc.

Mr Foster considered that the Council’s proposal did not provide for fair representation for the electors of each ward. He suggested that the Council should be elected under a structure of 6 new wards, electing 14 or 15 members.

Mr A B Arthur sought to have the Roseneath area included in the Lambton Ward.

The Mount Victoria Resident's Association Inc. sought the provision of an additional councillor for the Lambton Ward.

Mr David Butler sought an enlargement of the Lambton Ward to encompass an area of the Southern Ward, located north of the line of Mein and Hall Streets, and the Roseneath and Hataitai areas of the Eastern Ward. He proposed that the Lambton Ward should have four councillors and the Eastern Ward three councillors.

- 4 Following consideration of the objections, the Council amended its proposal by transferring the Roseneath Area Unit (excluding Meshblock 2186400) and Meshblock 2184000 from the proposed Eastern Ward to the proposed Lambton Ward.
- 5 Appeals were received against the Council's final proposal from Mr Andy Foster and the Mount Victoria Residents' Association. The appeals were based on the matters raised in their respective objections to the Council's initial proposal.
- 6 Counter-objections were received against the Council's final proposal from Mr Andy Foster and Mr Ian Hutchings. Mr Foster objected to the change to the Council's initial proposal because of its impact on representation levels. Mr Hutchings objected to the Council's final proposal on the grounds that 1996 Census figures were applied to determine ward representation when more up to date information was available. Mr Hutchings also proposed the division of the City into three or four wards, electing a total of 16 Councillors.

Preliminary Matter for Determination

- 7 The Commission, on receiving advice of the appeals and counter-objections, resolved that before making a determination of the electoral arrangements of the Council, it would meet with the Council, and the appellants and counter-objectors if they wished to be heard. The Commission resolved to meet the Council, the appellants and counter-objectors in Wellington City on 18 December 2000.

The Hearing

- 8 The Council was represented by Councillor Alick Shaw (Chair of the Democracy Sub-Committee) and Mr Ross Bly (Special Projects Officer, Democratic Services). The Mount Victoria Residents' Association Inc. was represented by Mr Victor Davie. Messrs Foster and Hutchings were also present.

The Council: Cr Shaw spoke to a submission. The content, his comments and replies to questions may be summarised as follows:

- the majority of Councillors consider that the ward system provides more effective representation of the City's communities of interest than elections at large;
- consultation undertaken with 305 City individuals or organisations showed that 67% favoured a ward system, and of these, 75% preferred the status quo;
- the Council provided eight weeks for objections to come forward to its initial proposal to allow progressive associations and other groups time to consult with their members and to provide for more detailed consideration of the notified proposal;
- the fact that four objections were received to the Council's initial proposal tends to indicate that the electors of the City were happy to retain the status quo;
- apart from strong representations from the Roseneath Residents' Association there has been virtually no push from the community for a change to current ward boundaries;
- the transfer of the Roseneath area, as provided for in the Council's final proposal, has strong support from the Roseneath Residents' Association and local residents;
- the Roseneath area is recognised as being a fringe area in terms of community of interest;
- the Council applied 1996 Census population figures because they were the best and most accurate figures available;
- if 1999 estimated population figures had been applied it would have been difficult to achieve an 18 member Council, because both the Eastern and Lambton Wards would be entitled to more than 3 members; and
- the Council looked at options for combining wards, but considered that the current ward structure best reflected existing communities of interest.

Mount Victoria Residents' Association: Mr Victor Davie addressed the Association's appeal. His comments and replies to questions may be summarised as follows:

- the Association is not party political;
- the Lambton Ward has grown rapidly in population since the last Census;
- the Association would not wish to have the representation of the Lambton Ward increased through a reduction in the representation of other wards;
- the Lambton Ward is estimated to have increased in population by 4800 since the 1996 Census and the Roseneath transfer would add approximately another 1500 persons to the ward;
- the Association does not consider that the population ratio per member based on the Council's proposal is fair;

- the Association has no objection to the boundary change between the Eastern and Lambton Wards, but if the change does proceed it further justifies a fourth member for the Lambton Ward; and
- the Association considers that the Council should have applied current population estimates in determining its proposals.

Mr Andy Foster addressed his appeal and counter-objection. His comments and replies to questions may be summarised as follows:

- Mr Foster is concerned with the equality of representation;
- the Council chose not to use 1999 population estimates because it would have made its proposal even harder to sustain;
- the majority of those who responded to the Council's consultation project did not support an increase in the total number of Councillors, so increasing the membership of the Lambton Ward, and that of the Council overall, is not the way to go; and
- the Council would function effectively under a ward system with 14 or 15 Councillors.

Mr Hutchings addressed his counter-objection. His comments and replies to questions may be summarised as follows:

- the Council's proposal fails when either 1996 Census or 1999 estimated population figures are applied;
- the Council did not consciously adopt the 1996 figures when determining its proposal;
- the Council should have used the 1999 estimated population figures provided to it by Statistics New Zealand;
- the 1999 estimated population figures show the growth trends of the District, with a 16% increase in population of the Lambton Ward since the 1996 Census, while the Onslow Ward's increase has been only 3%; and
- Mr Hutchings favours a three or four ward electoral structure for the District, based on groups of the existing wards and the transfer of the Roseneath area, with the election of a total of 16 members.

The Council in reply: Cr Shaw's comments may be summarised as follows:

- with regard to the Mount Victoria Residents' Association objection, the provision of an extra Councillor for the Lambton Ward would compound the population per councillor differences between wards;
- with regard to the proposals put forward by Mr Foster, arithmetic has been allowed to dominate community of interest considerations, and reducing the size of the Council is a primary objective;
- with regard to the proposals put forward by Mr Hutchings, it should be noted that there is no drive in the community to reduce the number of wards, and the provision of a small number of wards would invite parochial ward voting;

- if the suggestions put forward by Messrs Foster and Hutchings were put in front of the public they would generate a widespread response; and
- the public of Wellington is looking for a set of electoral arrangements based on the current situation.

MATTERS FOR DETERMINATION

9 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.”*

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 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 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 City 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 City.

14 Wellington City is a diverse area, with the Central Business District focused on Lambton Harbour, suburban areas, and rural areas on its western periphery. The topography and geographic features of the City have been factors in fostering distinct communities of interest over time.

- 15 The Commission is satisfied that distinct communities of interest continue to exist in Wellington City, and that effective representation for communities of interest would best be achieved by continuing to divide the City into wards for electoral purposes.

Appropriate Ward System

- 16 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 City. 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.
- 17 The Commission emphasises that wards are for electoral purposes only, and that the Council is the entity to which members are elected.
- 18 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.
- 19 The Council has proposed that the wards of the Council should remain unchanged from those determined by the Commission for the 1998 elections, except for the transfer of the Roseneath area from the Eastern Ward to the Lambton Ward, to better reflect the shared community of interest of residents of the Roseneath area with the residents of the Lambton Ward.
- 20 The Commission considered the various ward suggestions put forward by two of the appellants and came to the view that they did not adequately reflect the existing communities of interest of the City. The Commission considered that the wards options put forward by Mr Foster do not reflect communities of interest as well as the ward proposals put forward by the Council. The ward suggestions put forward by Mr Hutchings in some cases combine communities of interest that have little in common - for example, the combination of the Western and Lambton Wards would combine rural portions of the City with the Central Business District. Also, these proposals do not reflect the increasingly distinct community of interest of residents in the Lambton Ward.
- 21 From the information and evidence presented to it, the Commission came to the view that the ward structure determined by it for the 1998 elections, subject to the transfer of the Roseneath area proposed by the Council, continues to provide effective representation for communities of interest in the City.
The Commission is satisfied that the proposed wards more or less equate to 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 City.

Number of Members

- 22 Having decided that there will be 6 wards, the Commission is then required to determine what would be fair representation for the electors of the various wards.
- 23 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.
- 24 The following table sets out representation options based on population alone. The population information utilised in the table is estimated resident population as at 30 June 2000 as supplied to the Commission by Statistics New Zealand.

| Ward | Popn. | 16 | 17 | 18 | 19 | 20 |
|----------|-------|------|------|------|------|------|
| Northern | 36200 | 3.46 | 3.68 | 3.89 | 4.11 | 4.32 |
| Onslow | 15400 | 1.47 | 1.56 | 1.66 | 1.75 | 1.84 |
| Western | 19350 | 1.85 | 1.97 | 2.08 | 2.20 | 2.31 |
| Lambton | 34270 | 3.28 | 3.48 | 3.69 | 3.89 | 4.10 |
| Eastern | 33030 | 3.16 | 3.35 | 3.55 | 3.75 | 3.95 |
| Southern | 29100 | 2.78 | 2.96 | 3.13 | 3.30 | 3.48 |

- 25 The table indicates that fair representation between the electors of each ward is more or less achieved with a 19 member Council. This would involve the provision of an additional member to represent the Lambton Ward. The Commission is of the view that an increase in the representation of the Lambton Ward is justified in order to reflect the significant increase in population of that ward since the 1996 Census, which is principally due to the ongoing trend towards inner city apartment living. The inclusion of the Roseneath area, with an estimated population of 1670 as at 30 June 2000, in the Lambton Ward, reinforces the justification for an additional member for the Lambton Ward.
- 26 While the Council had 1999 estimated resident population statistics available to it when formulating its proposals, it decided to use 1996 Census figures as the basis for its decisions. The Commission considers that as a matter of good practice, the Council should have used the more recent estimated population figures in reaching its decision, particularly when it was aware that the rate of population growth in the Lambton Ward is greater than in other wards of the City.

- 27 The Commission is of the view that if the population of the Lambton Ward continues to grow at a faster rate than the other wards of the City, the Council may need to consider other models for achieving effective and fair representation when undertaking its next statutory review.

DETERMINATION

- 28 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) Wellington City, as delineated on S.O. Plan 35959 deposited with the Chief Surveyor of the Wellington Land District, shall be divided into 6 wards;
 - (2) Those 6 wards shall be -
 - (a) The Northern Ward, comprising the area delineated on S.O. Plan No. 37883 deposited with the Chief Surveyor of the Wellington Land District:
 - (b) The Onslow Ward, comprising the area delineated on S.O. Plan No. 37884 deposited with the Chief Surveyor of the Wellington Land District:
 - (c) The Western Ward, comprising the area delineated on S.O. Plan No. 37885 deposited with the Chief Surveyor of the Wellington Land District:
 - (d) The Lambton Ward, comprising the area delineated on S.O. Plan No. 37886 deposited with the Chief Surveyor of the Wellington Land District:
 - (e) The Eastern Ward, comprising the area delineated on S.O. Plan No. 37887 deposited with the Chief Surveyor of the Wellington Land District: and
 - (f) The Southern Ward, comprising the area delineated on S.O. Plan No. 37888 deposited with the Chief Surveyor of the Wellington Land District;
 - (3) The Council shall comprise the Mayor and 19 members who shall be elected as follows -

- (a) four members shall be elected by the electors of the Northern Ward;
- (b) two members shall be elected by the electors of the Onslow Ward;
- (c) two members shall be elected by the electors of the Western Ward;
- (d) four members shall be elected by the electors of the Lambton Ward;
- (e) four members shall be elected by the electors of the Eastern Ward; and
- (f) three members shall be elected by the electors of the Southern Ward.

29 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

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| Sir Ross Jansen | (Chairman) |
| Barbara Durbin | (Commissioner) |
| Bruce Anderson | (Commissioner) |

27 March 2001