



## LOCAL GOVERNMENT COMMISSION

# Determination

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

### BACKGROUND

- 1 The Whakatane 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 Council elected at the 1998 general election comprises 15 members and the Mayor. The 15 members were elected as follows:

Edgecumbe Ward	1 member
Galatea Ward	1 member
Matata Ward	1 member
Murupara Ward	1 member
Omataroa Ward	1 member
Taneatua Ward	1 member
Tarawera Ward	1 member
Waimana Ward	1 member
Whakatane Ward	6 members
Ohope Ward	1 member
- 3 Following its review, the Council proposed that there be no changes to its existing wards or membership.
- 4 The Council’s reasons for its decisions may be summarised as follows:
  - retention of the present membership best retains equitable levels of representation; and

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- the present ward system best provides for effective representation of communities of interest.

5 The Council received six objections to its proposal from:

- Mrs Ida Rose;
- Mr E W Persson;
- Mr J G Blackwood;
- Mr F W Villis;
- Whakatane District Grey Power; and
- Otarawairere Residents.

6 The subject matter of the objections may be summarised as follows:

- the number of councillors should be reduced to 10 - 5 urban and 5 rural - with the wards being altered to achieve this;
- there should be five wards, with a total of 10 members achieved by combining existing wards with memberships as follows:

Galatea-Murupara	1 member
Tarawera-Matata-Edgecumbe	
Omataroa	3 members
Waimana (part)-Taneatua	1 member
Waimana (part)-Ohope	1 member
Whakatane Urban	4 members

- as above, except that the Ohope Ward be retained unchanged;
- include the Otarawairere area, presently in the Whakatane Ward, in the Ohope Ward; and
- support for the Council's proposal.

7 Following consideration of the objections, the Council resolved to make the alteration sought between the Ohope and Whakatane Wards. Otherwise, it confirmed its original proposal. The Council's reasons for the proposed change was that it "recognised the Otarawairere residents claim for a community of interest with the Ohope residents due to such factors as their inclusion in the East Cape [*parliamentary*] electoral boundary and their use of Ohope services such as shops and schools." Messrs Persson and Villis, and Mrs Rose appealed the Council's decision.

8 In addition, four counter-objections were received. These are discussed below in paragraph 11.

### **Subject Matter of Appeals**

9 Mrs Rose and Mr Persson argued for the District to be divided into five wards, electing a total of 10 members and the Mayor on the basis of population only. Mr

Villis continued to seek a council of 10 – 5 rural and 5 urban, while retaining the existing rural ward system.

## Preliminary Matter for Determination

- 10 The Commission, on receiving advice of the appeals, resolved that, before making a determination of the electoral arrangements of the Council, it would meet the Council and the appellants if they wished to be heard. The meeting was held in Whakatane on 29 November 2000.
- 11 The Commission considered the counter-objections it had received. It resolved that they were not valid because they did not refer to the alteration to the Council's original proposals.

## The Hearing

- 12 The Council was represented by the Mayor (Mr C J Hammond), the Deputy Mayor (Christine Chambers), Cr A J Adams, and Cr J H White. The Chief Executive, Mr Ian McDonald, and other officers were also present. All the appellants were present.

*The Council:* The Mayor and councillors spoke to a submission. The content, comments and replies to questions may be summarised as follows:

- the District is large and diverse, and therefore it is appropriate that it continues to be divided into wards, and through the absence of submissions on the matter, this is supported generally within the District;
- the Council took account of the Commission's 1998 decision, and wanted to ensure that no communities of interest were split, but, on the other hand did not think it appropriate to amalgamate wards because of a perceived concern that such an action could, in some parts of the District, force together incompatible groups, particularly different iwi and hapu;
- the Council took some account of rateable values, areas, and other relevant characteristics when fixing representation for the wards, but population is the most important criterion;
- Murupara was a separate borough until 1989, and continues to be a distinct community of interest, particularly for the Ngati Manawa who are the tangata whenua within the ward, and still have some grievance about the loss of ancestral lands to other iwi;
- Galatea is a large area with many different communities of interest, and has little community of interest with Murupara;
- Murupara is still coming to terms with the effects of local government reorganisation and forestry restructuring, and it will be some time before the residents are ready for further change;
- the workloads of the present councillors are high, and any reduction in their numbers would have a significant impact upon them;

- the distance from headquarters of, particularly Murupara and Galatea, means that sufficient representation for residents of those areas would become an important factor;
- the Council agrees that the residents of Otarawairere have a greater community of interest with those in Ohope than with Whakatane Town residents;
- while district-wide representation may be appropriate at some time, that time is still well into the future;
- Councillor Adam stated that, although elected from the Murupara Ward, he co-operated with Councillor White from the Galatea Ward in relation to matters affecting the tangata whenua in the Galatea Ward;
- he also said that it could be appropriate for Minginui to be in the same ward as Murupara;
- Councillor White said that although there are perceived differences between Ngati Awa and Tuhoe generally, members of both iwi live together in the town of Whakatane;
- the Mayor stated that there were some objections to the suggested amalgamations of other wards; for example:
  - \* in the case of Taneatua and Waimana, Taneatua has a township with a community, but there is no township at all in the Waimana Ward; and
  - \* similarly, Edgecumbe is a township but Omataroa is entirely rural.

**Mr Villis** spoke to a new submission. That part of the content, which was relevant to the appeal may be summarised as follows:

- he was associated with local government between 1942 and 1998;
- there should be 5 rural and 5 urban councillors, giving a maximum of 10 for the District;
- the Council's committee structure could be readily altered to cope well with a smaller number of members; and
- the present council size is unbalanced because there are 6 representing the urban population of 17,000 and 9 representing the rural population of 16,000.

**Mr Persson** made an oral submission. The content, his comments and responses to questions may be summarised as follows:

- the allocation of representation for the Ohope Ward, when compared to the Waimana Ward, is not fair; the population of Ohope warrants 1.11 councillors while Waimana Ward's population only justifies 0.53;
- he did not think that urban ratepayers should be required to contribute to the cost of providing roads and bridges in rural areas;
- there was no longer any need to maintain the present number of rural wards because the population in rural areas was dropping; as an example, the numbers of dairy farms in the district is only about 10-15% of those existing in 1976;
- there was no good reason why Galatea and Murupara Wards should not be combined;
- he supported the proposal that Otarawairere be included in Ohope; and

- a reduction in the number of wards is a necessary precursor to the introduction of the proposed STV system of voting.

*Mrs Rose* presented a new submission. The content, her comments and responses to questions may be summarised as follows:

- she continues to support a reduction in the numbers of wards;
- the present wards are no longer appropriate; much of the area of some of them is bush or National Park;
- in her submission she only took account of population because she was unaware that other factors could have been taken into account; and
- the Ohope Ward should be retained.

*The Council in reply:* The Mayor's remarks in reply may be summarised as follows:

- he asked that the Commission take account of the size of the District and the two iwi in the Galatea and Murupara Wards; and
- should the Commission decide to reduce the number of wards, he suggested that the Whakatane Urban and Ohope Wards be combined.

## MATTERS FOR DETERMINATION

- 13 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 29<sup>th</sup> 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.”*

- 14 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**

15 The Commission considers that when deciding:

- (a) whether the election of the members of a council (other than the Mayor) should 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,

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 a ward or wards 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.

16 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 the rateable values and areas 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 may 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.

- 17 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.
- 18 The Whakatane District is a large area. It contains a diversity of geographical characteristics, including land types, and a mix of urban and rural farming areas. The Commission came to the view that because of the size and 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 and all the appellants sought a ward system for electoral purposes.

### **Appropriate Ward System**

- 19 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.
- 20 The Commission emphasises that wards are for electoral purposes only, and that the Council is the entity to which members are elected.
- 21 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.
- 22 The Council has proposed that the District continue to be divided into 10 wards, which would remain based on those determined by the Commission in its determination for the 1998 elections. The Council considers that the proposed structure takes into account the distinct communities of interest within the District.
- 23 The Commission agrees that the District has a number of different communities of interest. In its opinion, amongst the most important of these are:
- the town of Whakatane;
  - the mixed suburban and resort area of Ohope;
  - the smaller settlements, principally Taneatua, Edgecumbe, and Matata, near the coast with their contiguous rural areas; and
  - the large inland areas centred on Murupara, Ruatahuna, and Minginui.
- 24 There have been no changes to the District's ward structure, outside of the amalgamation of the two wards within Whakatane town and the establishment of the

Ohope Ward, since the date of constitution. When questioned, the Council's representatives stated that while the present structure has been accepted by most residents, it may be acceptable to combine wards at some future time. There was no direct evidence of an existing significant difference between the communities resident in the Waimana and Taneatua Wards or the Edgecumbe, Tarawera, Omataroa, and Matata Wards, other than that there were small towns in some of these wards but not in others. The retention of separate wards for Galatea and Murupara was defended by the Council on the grounds that these represented different iwi with a past history of hostility towards each other. However Councillor Adam, who is elected from the Murupara Ward, stated that he regularly visited groups of residents in Ruatahuna and Minginui, which are in the Galatea Ward, to discuss their local government concerns.

- 25 Evidence was presented by the appellants that there is no significant reason to maintain the present number of wards because modern roads and communications means that councillors can ensure continued effective representation over larger areas than formerly.
- 26 The appellants seek the division of the District into five wards, based on groupings of the current wards. They argue that this would ensure that each ward would contain a mix of urban and rural areas, and a good mix of land uses and land types.
- 27 The Commission agrees with the appellants that the various communities within the District would be more effectively represented if members were elected from a smaller number of wards, with, in most cases, more than one councillor. This would ensure a greater chance of direct input from a councillor from each ward into the deliberations of all of the Council's committees.
- 28 Murupara is the nearest reasonably large shopping centre for the residents of the upper Rangitaiki in the Galatea Ward. This produces a mutual community of interest for an area, which is the most remote from the Council's offices. The Commission noted that the southern part of the District is in the Rotorua rather than the Whakatane free-calling area. The Commission is of the view that the final incorporation of the former Borough of Murupara within the Whakatane District is now well overdue. The union of these wards would not detract at all from the current practice whereby the Murupara member deals directly with residents of Ruatahuna and Minginui, rather, it would ensure an improvement in councillor accountability to all the electors of the combined areas.
- 29 The Commission considers that the present Waimana and Taneatua Wards contain similar communities of interest, and that this area forms an appropriate grouping for representation in the East of the District.

- 30 The four western wards of Matata, Tarawera, Edgecumbe, and Omataroa also form an appropriate grouping. There was no evidence that the residents have interests so different from each other as to render such a combination inappropriate.
- 31 The Mayor suggested that, if the number of wards in the District were to be reduced, the Ohope Ward should be incorporated within the Whakatane Urban Ward. While the Commission notes that Ohope is largely a suburb of Whakatane, at the same time it does have some important differences from the town because it is also an important holiday resort with a major beach frontage and concerns over the retention of the coastal dune structure. The Commission believes that, in supporting the inclusion of Otarawairere in the Ohope Ward, the Council itself apparently recognised that the community of Otarawairere would be more effectively represented within the separate Ohope Ward.
- 32 The Commission upholds the Council's proposal to alter the boundary between the Whakatane Urban Ward and the Ohope Ward to include Otarawairere in the Ohope Ward. It accepts the evidence presented that the residents of this small area have a greater community of interest with Ohope. The Commission upholds the appeals seeking a reduction in the number of wards in the District.
- 33 The Commission has therefore determined that the District shall be divided into five wards as follows:
- the present Whakatane Ward, minus Meshblock 1294102, and renamed the "Whakatane Urban Ward";
  - the present Ohope Ward, plus Meshblock 1294102;
  - the "Taneatua-Waimana Ward", being a combination of the present Taneatua and Waimana Wards;
  - the "Galatea-Murupara Ward", being a combination of the present Galatea and Murupara Wards; and
  - the "Edgecumbe-Tarawera" Ward, being a combination of the existing Matata, Tarawera, Edgecumbe, and Omataroa Wards.
- 34 The name "Edgecumbe- Tarawera" recognises two important geographic features of that Ward - Mount Edgecumbe and the Tarawera River.

### **Number of Members**

- 35 Having decided that there will be 5 wards, the Commission was then required to determine what would be fair representation for the electors of the various wards.
- 36 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.

- 37 The Commission considered whether a fair allocation of members could be achieved taking account of the populations of each ward. The following table shows the position:

Ward	Population	%	Members				
			11	12	13	14	15
Whakatane Urban	14,160	42.74	4.70	5.13	5.57	5.98	6.41
Ohope	2,696	8.14	0.90	0.98	1.06	1.14	1.22
Taneatua-Waimana	3,458	10.44	1.15	1.25	1.36	1.46	1.57
Galatea-Murupara	3,960	11.95	1.31	1.43	1.55	1.67	1.79
Edgecumbe-Tarawera	8,855	26.73	2.94	3.21	3.47	3.74	4.01
Total	33,129	100.00					

While the Commission finds that fair representation can be achieved by a mathematical calculation taking account only of the populations of the various wards, it is of the view that that the significantly different areas and rateable values of each ward impact on fair representation.

- 38 Accordingly, the Commission considered the outcome if, in addition to population it took account of the rateable values and areas of each ward in the proportions of 80:10:10. The following table shows the position.

Ward	Factor	Members					
		10	11	12	13	14	15
Whakatane Urban	36.72	3.67	4.04	4.41	4.77	5.14	5.51
Ohope	7.63	0.76	0.84	0.92	0.99	1.07	1.14
Taneatua-Waimana	12.72	1.27	1.40	1.53	1.65	1.78	1.91
Galatea-Murupara	16.19	1.62	1.78	1.94	2.10	2.27	2.43
Edgecumbe-Tarawera	26.74	2.67	2.94	3.21	3.48	3.74	4.01
Total	100.00						

- 39 In the opinion of the Commission, a council of 12 members (plus the Mayor) is the minimum membership that would give the fairest representation for the electors of the various wards by taking into account population as the predominant factor as well as area and rateable value. It also allows two members for each of the rural wards.
- 40 Therefore, having considered all aspects of the matter of representation, the Commission has concluded that the membership of the Council should total 13 members and the Mayor, taking into account population, rateable value and area on

the basis outlined above. The appeals that sought a reduction in the number of members are met by providing for fairer representation between wards.

## **DETERMINATION**

- 41 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 Whakatane District as delineated on S.O. Plan 61545 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 Whakatane Urban Ward, comprising the area delineated on S.O. Plan No. 60085 deposited with the Chief Surveyor of the South Auckland Land District;
    - (b) the Ohope Ward, comprising the area delineated on S.O. Plan No. 60881 deposited with the Chief Surveyor of the South Auckland Land District;
    - (c) the Taneatua-Waimana Ward, comprising the area delineated on S.O. Plan No. 58053 deposited with the Chief Surveyor of the South Auckland Land District;
    - (d) the Galatea-Murupara Ward, comprising the area delineated on S.O. Plan No. 58062 deposited with the Chief Surveyor of the South Auckland Land District;
    - (e) the Edgecumbe-Tarawera Ward, comprising the area delineated on S.O. Plan No. 61546 deposited with the Chief Surveyor of the South Auckland Land District;
  - (3) The Council shall comprise the Mayor and 13 members who shall be elected as follows -
    - (a) Five members, who shall be elected by the electors of the Whakatane Urban Ward;
    - (b) One member, who shall be elected by the electors of the Ohope Ward;

- (c) Two members, who shall be elected by the electors of the Taneatua-Waimana Ward;
- (d) Two members, who shall be elected by the electors of the Galatea-Murupara Ward; and
- (e) Three members, who shall be elected by the electors of the Edgecumbe-Tarawera Ward.

42 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