

Chairperson and Community Board Members
ŌTAKI COMMUNITY BOARD

3 FEBRUARY 2015

Meeting Status: **Public**

Purpose of Report: For Decision

REPRESENTATION REVIEW - BOARD MEMBERSHIP OF WORKING PARTY

PURPOSE OF REPORT

- 1 This report asks the Ōtaki Community Board to consider nominating a Board member as a potential member of the Representation Review Working Party.

DELEGATION

- 2 The Board has the delegation to consider this matter under clause 10.7 of Part D in the Governance Structure and Delegations document (27 November 2014 version):

Authority to receive matters referred to the Board by Council or its Standing Committees for consideration and reporting on a local perspective.

BACKGROUND

- 3 A representation review is a statutory process which must be undertaken by every council at least every six years, and for the Kāpiti Coast District Council this process must be undertaken in 2015. This will allow Council, in consultation with its community, to consider whether the representation arrangements currently operating are adequate or need to be changed, having regard to legislative principles of fairness and effectiveness of representation. The current structure of ward and districtwide councillors and community boards has been in place in a relatively unchanged way since 2004.
- 4 The review process is mandated through the Local Government Act (LGA) 2002 and the Local Electoral Act (LEA) 2001. There are key timeframes associated with the steps in the process (Appendix 1). The process entails the Council consulting with its community on key aspects of its representation arrangements, including:
 - What 'communities of interest' exist on the Kāpiti Coast?
 - What kind of structure is effective in ensuring fair representation of the Kāpiti Coast communities, for example should councillors be elected on a ward basis or a districtwide basis or through a mixed system? (The District currently has a mixed system.)
 - How many councillors are required to ensure both effective governance and effective representation? (within statutory parameters)
 - Is there a continuing need for community boards to represent the distinctiveness of their communities and provide for more devolved decision-making/advocacy?

- 5 Although legislation prescribes factors for consideration and timeframes for consultation/decision-making there is no prescribed process for how the Review is carried out.
- 6 On 11 December 2014 Council considered options for the process of conducting the Review. Of the two options put forward Council chose to convene a Working Party comprising two Councillors and Council officers, but felt it was also important that the Working Party should have the capacity to invite other members to participate. This could include an iwi representative and/or one member representing Community Boards. The meeting resolution is below and a copy of the report is at Appendix 2.

That the Council approves the convening of a Representation Review Working Party to manage the Council's 2015 representation review, comprising Cr Cardiff and Cr Gaylor and relevant Council officers; with the ability to invite additional members including an iwi member.

CONSIDERATIONS

Issues

- 7 This report is being circulated through each of the four Boards to inform them of the process and give them an equal opportunity to nominate a representative. However, as the Working Party comprises only two Councillors the membership would be unbalanced if there were four Community Board representatives. However if each Board nominates someone, it is suggested that either the Board Chairs resolve the final nomination amongst themselves or one name is drawn by lot in mid-February when all the Boards have been consulted.
- 8 Draft Terms of Reference for the Working Party are at Appendix 3. Although it is difficult to estimate how much time the Working Party would need to devote to its tasks, it is estimated that around 30 hours (5-6 days) of work would be entailed. Broadly speaking the programme of activity would include:

Timing	Task
Jan/Feb	Finalisation of working party membership and terms of reference
March/April	Development of representation draft proposal options and pre-consultation on those options with the community
May/June	Finalisation of option/s and recommendation to Council

- 9 Council must release its draft proposal no later than August for public consultation which would include the receipt and hearing of submissions and the issue of a final proposal around November. If there are appeals and objections to this final proposal then the matter is referred to the Local Government Commission who will consider all the input and issues and make a final decision by April 2016 in time for the local body elections in October 2016.
- 10 Members will be aware of the Local Government Commission's reorganisation process for the Wellington Region currently unfolding (as presented at today's meeting). The representation review process must continue regardless until such time as it becomes evident that a change in governance structure at the regional level is inevitable.

Financial Considerations

- 11 Council declined to approve remuneration for any Working Party members.

Legal Considerations

- 12 The representation review process is mandated under the Local Government Act 2002 (various sections) but primarily through the Local Electoral Act 2001 (sections 19A to 19Y of part 1A).

Tāngata Whenua Considerations

- 13 A similar report has been considered by Te Whakaminenga o Kāpiti on 20 January. Te Whakaminenga o Kāpiti approved the nomination of an iwi member and this is being progressed through the ART Confederation.

SIGNIFICANCE AND ENGAGEMENT

Degree of significance

- 14 The decision presented here is not significant under Council's Significance and Engagement Policy. The process is mandated by legislation and allows as much opportunity for the community to have input and appeal the Council's decision as would have been the case if this matter was considered to meet the significance thresholds in the Policy. Furthermore, dependent on the receipt of appeals and objections to the final proposal it would be the Local Government Commission making the final decision.
- 15 Notwithstanding any decision today, Community Boards are considered important stakeholders in the process and will be consulted on draft and final proposals as the process unfolds.

Publicity Considerations

- 16 There will be a communications strategy developed for the review process with media releases (amongst a range of media) signalling opportunities for community involvement and capturing key decision points along the way.

RECOMMENDATIONS

- 17 That the Ōtaki Community Board notes the Review of Representation Arrangements being carried out in 2015 and approves Board member for further consideration as a member of the Review Working Party.

Report prepared by:	Approved for submission by:	Approved for submission by:
Vyvien Starbuck-Maffey	Stephen McArthur	Wayne Maxwell
Democracy Services Manager	Group Manager Strategy and Planning	Group Manager Corporate Services

ATTACHMENTS:

- Appendix 1 Timeframes associated with the representation review process
- Appendix 2 Copy of Council report Corp-14-1419 and associated appendices
- Appendix 3 Working Party Draft Terms of Reference

APPENDIX 2

Copy of Council report presented on 11 December 2014 following – minus Appendix
3

Mayor and Councillors
COUNCIL

11 DECEMBER 2014

Meeting Status: **Public**

Purpose of Report: For Decision

**2015 REVIEW OF REPRESENTATION ARRANGEMENTS FOR
THE KAPITI COAST DISTRICT - PROCESS**

PURPOSE OF REPORT

18 Council is invited to consider options and approve a process for conducting the mandatory 2015 Review of Representation Arrangements for the Kāpiti Coast District.

BACKGROUND

19 A representation review is a statutory process which must be undertaken by every council at least every six years. It is mandated through the Local Government Act (LGA) 2002 and the Local Electoral Act (LEA) 2001 (primarily section 19). Representation reviews are important because:

- They help ensure fair electoral arrangements and equality of access
- They enable the community to discuss the nature of effective representation
- They contribute to the experience of democracy

20 The timeframes and key milestones of this process are mandated by legislation (see Appendix 1). What this report seeks is the Council's preferred option for developing the initial proposal. The initial proposal has to be released by August 2015, and there are a number of ways Council could arrive at this point.

21 However Council decides to handle the development of the initial proposal Council has a critical role to play in receiving and considering public submissions, and deciding on a final proposal which is also released for public reaction, by way of appeals or objections. If any appeals and/or objections are received at this point the matter is referred to the LGC who will make the final decision (determination). This may involve further hearings.

22 Consideration of the electoral system and the establishment of Māori Wards are also a preliminary part of the review process and both of these have already been dealt with by this Council. In August 2014 Council decided to retain STV as its preferred electoral system for the 2016 local body elections. Council was willing to consider the establishment of a Māori Ward if iwi supported this however, through Te Whakaminenga o Kāpiti ART members indicated that iwi did not support the concept and so Council did not pursue it.

23 What remains for Council to do now is carry out the rest of the representation review process which involves consulting with its community on:

- What kind of structure is effective in ensuring fair representation of the Kāpiti Coast community (all wards? All districtwide? A mixed system?)

- How many councillors are required (within a legally prescribed range of 6 to 14) to ensure both effective governance and effective representation?
 - Is there a continuing role for community boards (to capture the distinctiveness of their communities and provide for more devolved decision-making/advocacy)?
- 24 In carrying out this consultation in accordance with prescribed timeframes Council needs to have regard primarily to the principle of ensuring fair and effective representation for individuals and communities.
- 25 The previous representation review was carried out by Council in 2009 and resulted in the current representation structure applying to the last two triennial elections including some minor boundary adjustments.

CONSIDERATIONS

Issues

- 26 Before describing the ways Council could approach the review, it is necessary to allude to the LGC's release on 4 December of the draft reorganisation model for the Wellington region. The LGC proposal will be subject to a submission process and it is highly likely that the final proposal will trigger a poll. If this scenario eventuates the whole process could take up to a year before the fate of the Wellington Region's governance arrangements is clear. If the poll is against change the status quo will remain. It is critical then that the Council proceeds with the representation review within the statutory timeframes until such time as the outcome of the LGC process is definitive.

Options for carrying out the review

- 27 There are a number of ways Council could go about gathering information to shape the initial proposal for public consultation. (The initial proposal must be presented for Council's consideration in August 2015.) Information at Appendix 2 shows a variety of mechanisms adopted by other councils. Based on this information two options are offered below:
- Option 1 – Council to convene an independent review panel made up of one or more Councillors and a number of community representatives
 - Option 2 – Council to convene a working party comprising one or more Councillors and Council officers from subject-relevant areas.

- 28 More information and discussion of each option follows:

Option 1 – Convening an independent panel

- 29 The appointment (by Council) of an independent Panel has been the preferred option for a number of councils (see Appendix 2). Draft Panel Terms of Reference are at Appendix 3. The size of the panel would ideally be 5-7 members and have a broad representation in terms of age, gender, ethnicity, and geography as well as people with relevant skills and a good knowledge of the District. A decision on remuneration would also have to be made.

- 30 Appointing panel members could involve appointing a Councillor or Councillors today to the Panel and calling for expressions of interest from the community, with Council approving final membership at its meeting in January 2015 (including appointment of a Chairperson).

Pros

- An independent panel could be perceived by the community as being more representative and objective in its deliberations.
- Council has employed this structure satisfactorily for a number of key projects in recent times (the independent review of the PDP, and the LTP Reference Group, most notably), so it is not unfamiliar.

Cons

- A high profile process would be confusing as the LGC debate unfolds.
- The Panel would be supported by staff coinciding with one of the busiest times in the Council work programme i.e. the first half of the year which is committed to the LTP process.
- There would be a cost implication if Council decided to remunerate the members of the Panel.

Option 2 – Convening a Representation Review Working Party

- 31 An internal working party could be convened comprising one or more Councillors (one Ward Councillor, one Districtwide Councillor?) and relevant staff i.e. the Democracy Services Team, the Electoral Officer, members from the Strategy and Partnerships Group, and a GIS technician. This option is the recommended one.

Pros

- This was the path followed for the 2009 review where a number of models were developed internally and offered for consideration by Elected Members in a series of briefings and public workshops as input to an initial proposal.
- This option would be more logistically flexible. For this reason this option is the recommended one.
- This option would not involve remuneration costs.

Cons

- This option would impact on the work programme of staff at a busy time in the work calendar.

Next steps

- 32 If Council decided to convene a Panel an advertisement would be placed in local newspapers and on Council's website and Facebook pages calling for expressions of interest which Council would then consider in a public excluded meeting in January.
- 33 Whichever mechanism Council chooses, an initial proposal must be approved by Council for public submission no later than August 2015.

Financial Considerations

- 34 There are sufficient funds to carry out this activity. If Council chooses Option 1 it would have to decide whether some or all panel members should be remunerated and at what cost. It is suggested the rate be \$150 per person per day, comparable with what Elected Member hearing commissioners for the PDP hearings would be paid. It is difficult to say how many hours the Panel would need to convene, but one other council's experience was 30 hours (5-6 days) of Panel time. If this Council adopted the \$150 fee this would result in a cost of \$4,500.

Legal Considerations

- 35 The representation review process is mandated under the LGA 2002 and LEA 2001.

Delegation

- 36 Council has the authority to consider this matter.

Policy Implications

- 37 There are no policy implications.

Tāngata Whenua Considerations

- 38 If Council decides on Option 1 it may consider whether an iwi member should be sought through Te Whakaminenga o Kāpiti.

SIGNIFICANCE OF DECISION

- 39 The decision presented here is not significant under Council's Significance and Engagement Policy. The representation review process is mandated by legislation which allows ample opportunity for the community to have input and appeal the Council's decision. In the event of appeals and objections to the final proposal the Local Government Commission (LGC) will make the final decision.

Consultation

- 40 Once Council has decided on the option for this process a communications strategy will be developed, including consultation with the community as required by the legislation.

Publicity Considerations

- 41 There is likely to be community interest in this decision and a media release will be prepared.

RECOMMENDATIONS

42 That the Council approves:

- a) the convening of a Representation Review Working Party to manage the Council's 2015 representation review, comprising Cr and Cr..... and relevant Council officers;

OR

- b) the convening of an Independent Representation Review Panel, comprising Cr....., three community representatives and an iwi representative.
- c) That the Council approves remuneration for the members of the Review Panel at the rate of \$150 per person per day;
- d) That the Council approves the Independent Representation Review Panel Draft Terms of Reference with any amendments as at Appendix 3 of report Corp-14-1419.

Report prepared by:

Approved for submission by:

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Approved for submission by:

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ATTACHMENTS:

- Appendix 1 Statutory timeframes for the process
- Appendix 2 Approaches by other councils
- Appendix 3 Draft Terms of Reference for an Independent Review Panel

Appendix 2 – Approaches by other councils to carrying out their reviews

(a) These councils have appointed an independent review panel:

Council	Review date	No of members	Council members	Composition of Panel	Remunerated
Gore	2006	5	1	Mayor, 4 members of the public	Not paid for time.
Invercargill	2009	7	1	Councillor, 6 members of the public appointed by Council	\$1,200 flat fee per member
Queenstown Lakes	2012	4	0	4 community members	Expenses only
Timaru	2012	7	2	Mayor, Ward Councillor and 5 members of the public appointed by Council	Not paid

(b) These district councils used a variety of mechanisms (as described in the resulting LGC determinations):

Reviews carried out for the 2013 local body elections	
Council	Method
Horowhenua	Public workshop to canvass options
Gisborne	Appointed a committee of the whole (council) to workshop options
Hastings	Appointed a review subcommittee comprising councillors, the Chair of the Rural Community Board and the Chair of the Council-Māori Joint Committee
Hauraki	Held a workshop and then appointed a working party comprising the Mayor, the Deputy Mayor, three Ward Chairs who produced a discussion paper. Council then also resolved to engage focus groups from each ward.
Kaipara	Two workshops held
Matamata-Piako	Preliminary consultation with the community on defining 'communities of interest'
Waikato	Held a series of workshops to identify 'communities of interest' and a range of options emerged from these
Western Bay of Plenty	Held a series of workshops resulting in a number of options

**APPENDIX 3 – DRAFT TERMS OF REFERENCE FOR REPRESENTATION
REVIEW WORKING PARTY**

Appendix 3 – Draft Terms of Reference for Representation Review Working Party

Purpose

- a) To develop representation options for the Kapiti Coast District Council which address the issues raised in sections 19H and 19J of the *Local Electoral Act 2001*, having regard to the factors specified in sections 19T and 19V.
- b) To present options for consideration by the Council to enable an initial proposal to be adopted for consultation with the community under section 19M of the Local Electoral Act
- c) The Council requires that the Review Working Party report will allow the Council to make fully informed decisions on the options, including arguments and implications for each alternative, for the future governance structure of the District for the period 2016 – 2019. The work undertaken by the panel will comply with the requirements of the *Local Electoral Act 2001*.

Tasks

- 1) Identify and define communities of interest.
- 2) Conduct such research, enquiries or other work as considered necessary to complete this brief.
- 3) Determine if early community input required and seek input as necessary.
- 4) Consider and recommend fair and effective representation arrangements throughout and for the District, including the election of councillors (at large, by ward or mixed) and community boards, if required.
- 5) Develop the reasonable alternatives available to the Council in regard to governance structures for the period 2016 - 2019 (including Community Boards if required) having regard to the legal tests.
- 6) Present and explain the panel's conclusions as necessary in front of the community, the Council and anybody charged with statutory responsibility for this function.
- 7) Report to Council on the representation options, including community boards, that were developed, the feedback and results of any community consultation, including the communities' views of the options and their desire (if any) for more or different representation.
- 8) Recommend options and a preferred structure.
- 9) Other such tasks as may be identified during the process.

Draft Process

A draft process to be followed by the Working Party may include the following steps:

- 1) Establishment of a work programme
- 2) Development of draft options and material for pre-consultation
- 3) Pre-consultation with community
- 4) Finalisation of option(s) and recommendation to Council
- 5) Presentation of options and recommendation to Council.

The Panel will determine the final process to be followed to achieve the tasks outlined above.

Panel Makeup

Council has appointed two Councillors to the Working Party which will be supported by appropriate Council officers, primarily by the Democracy Services Team. The Working Party also has the option for inviting additional members including an iwi member.

Estimated Time Involvement

Meetings will be held as required. An estimated time involvement for the process is between 25-30 hours, depending on the process undertaken.

Phase 1:	Pre meeting background reading	3 hours
	Development of Options, 2 -3 meetings	6 hours
Phase 2:	Public consultation, 3 - 4 meetings each	10 hours
Phase 3:	Development of report to Council and attendance at Council meeting	6 hours