

**Mayor and Councillors**  
COUNCIL

26 JANUARY 2012

Meeting Status: **Public**

Purpose of Report: For Decision

**AMENDMENTS TO THE GOVERNANCE STRUCTURE AND  
TERMS OF REFERENCE FOR THE 2010-2013 TRIENNIUM**

**PURPOSE OF REPORT**

- 1 This report seeks Council's consideration and approval of:
  - (a) a number of amendments to the Governance Structure for the 2010-2013 Triennium (21 April 2011 version);
  - (b) changes to the Committee membership structure which propose the appointment of iwi representatives to Council Standing Committees.

**SIGNIFICANCE OF DECISION**

- 2 This report does not trigger the Council's Significance Policy.

**BACKGROUND**

- 3 At its 17 March 2011 meeting Council resolved to defer the review of its Governance Structure until January 2012. This report proposes a number of changes, both to the governance structure document itself and to the Committee structure.

**CONSIDERATIONS**

Issues

**(A) Amendments to the Governance Structure document**

- 4 The proposed amendments and the reasons for the changes to the document can be found at Appendix 1. Most of the changes are minor in nature and are intended to 'tidy up' the document while also increasing operational flexibility between the Standing Committees. The key changes are discussed as follows:

*Environment and Community Development Committee (ECDC)*

- 5 At its November 2011 workshop Council requested that better reporting arrangements be put in place to strengthen the relationship between Council and a number of non-statutory bodies ie the Youth Council, the Kapiti Older Persons Council (formerly known as the Council of Elders), and the Road Safety Advisory Group. Currently both the Youth Council and the Kapiti Older Persons Council report to the ECDC every calendar year. This current practice is strengthened with the proposed additional delegations at page 15 of Appendix 1 which provides the ECDC with the power to receive reports from those groups at

least once a year, and similarly on page 25 to allow the RMC to receive reports from the Road Safety Advisory Group.

*Policy development*

- 6 Clause 5.1 of the Objectives for the ECDC (page 9 of Appendix 1) states: “Oversee the development of Council policies other than finance and regulatory policies...” but this function is not mirrored currently in the Regulatory Management Committee (RMC) or Corporate Business Committee (CBC) delegations. It is proposed to amend the relevant sections so that the RMC and CBC are so empowered. (See clauses 7.9 and 7.10 for the RMC page 19, and clause 7.4 of CBC at page 35 of Appendix 1).

*Grants Allocation Subcommittee*

- 7 This subcommittee was convened at the beginning of this Triennium in order to rationalise and streamline the grants allocation process for a number of programmes. Further changes are proposed (see pages 43-48 of Appendix 1). The Employment Initiatives Fund is now discontinued so it is proposed to remove the reference to this fund. It is also proposed to add two other granting programmes to the Committee’s portfolio: the Districtwide Hall Hire Remissions Grants (currently considered by the CBC) and the Heritage Fund Allocations (currently considered by the ECDC). In addition the ECDC resolved last year to convene a special subcommittee with specified membership (Cr Gaylor, Cr Church, Mayor and two Community Board members) to deal with the Waste Levy Grant applications and it is proposed to add this programme to the Grants Allocation Subcommittee. In effect the change is nominal rather than substantive: all the granting programmes will continue to operate under their various constitutions, granting cycles, and criteria. The workload of the Grants Allocation Subcommittee would increase by two additional meetings through the year.

*Property Purchase Subcommittee (PPS)*

- 8 Changes are recommended (see pages 55-56, Appendix 1) which clarify the financial delegations between CBC and the PPS. A further clause has been added to ensure the Subcommittee’s authority extends to land acquisition associated with reserves contributions and these align with the delegations to the Chief Executive. (The latter is the subject of another report on today’s agenda.) The rationale is to clarify the decision-making thresholds between the governance and executive arms of Council.

*Community Board delegations*

- 9 These delegations have been amended to make more explicit the Boards advocacy role, and to reflect the provisions of the two new Council policies pertaining to naming rights (see pages 66-67 and 70, Appendix 1)

*Terminology in the document*

- 10 Throughout the document references the Long Term Council Community Plan or LTCCP is referenced even though the Long Term Plan (LTP) has entered common parlance (and statute). This is because, although the relevant local government legislation has been made operative, technically speaking the Council will not have an LTP until after June 2012. It is recommended that

Council authorises the Chief Executive to update the document post-June 2012 to reflect the change (recommendation 26).

**(B) Iwi representation options**

- 11 The Council and iwi have enjoyed a successful working relationship since signing a Memorandum of Partnership in 1994 (reviewed and re-signed in 2008) which established Te Whakaminenga o Kāpiti as the independent partnership body considering and advising Council on matters of mutual concern.
- 12 In Council's Long Term Council Community Plan 2009 tāngata whenua based their vision of the District on four main principles, including *tinu rangatiratanga*. A key strategy to achieve this is to strengthen Māori representation within local government decision-making structure as enabled by the Local Government Act 2002 and the Local Electoral Act 2001.
- 13 While legislation stipulates that councils must make provision for Māori participation in decision-making it does not prescribe how this should be done. There are a wide range of mechanism utilised by local authorities for engaging with Māori, including the appointment of iwi representatives to council standing committees, and the creation of Māori Wards.
- 14 In 2011 iwi members of Te Whakaminenga o Kāpiti held a workshop on governance issues, including discussion of a number of options intended to strengthen iwi participation and representation. At the same time Council indicated that it would be prepared to consider these options as part of the review of its Governance Structure.
- 15 Further consultation with iwi and consensus on the options has been coordinated by Te Whakaminenga and the results expressed in a letter received on 19 December 2011 from the Chair Te Waari Carkeek (Appendix 2). In summary these preferred options are:
  - i. The Chair of Te Whakaminenga o Kāpiti would like to attend Council meetings (and would have speaking but not voting rights under the LGA 2002);
  - ii. One iwi representative to be appointed to each of the Council Standing Committees (presumably with voting rights);
  - iii. There was some consideration as to whether Te Whakaminenga o Kāpiti should become a Standing Committee of Council, but it has been decided that it is working well as a partnership body and so the status quo should be maintained;
  - iv. The establishment of a Māori Ward for the Kāpiti Coast District in the longer-term is supported and discussions should continue on this subject. (The establishment of a Māori Ward applying to the 2013 local body elections would have to have been considered by Council by 23 November 2011).<sup>1</sup>

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<sup>1</sup> Bay of Plenty Regional Council has 4 Māori Ward seats, the Waikato Regional Council will establish 2, and Nelson and Porirua City Councils are in the process of establishing Māori Wards

*The appointment of iwi representatives to Standing Committees*

16 This is a legal option under the terms of the Local Government Act 2002, (Schedule 7, clause 31) which allows a local authority to appoint non-elected members to its Standing Committees on the basis of their having skills, attributes or knowledge to assist the work of the Committee. This arrangement has been in place for a number of councils: Greater Wellington, Northland, Hawkes Bay, Marlborough (since 1989), Waipa, and for Wellington City. With the exception of the latter, all the other iwi appointees have full voting rights, although it is up to Council to decide on the nature of their participation.

*Next Steps*

17 If Council approved the appointment of iwi representatives to its Standing Committees this proposal would form part of the Draft 2012 Long Term Plan (LTP) released for public comment in April 2012. Assuming the proposal was adopted by Council in June it would be proposed to have Te Whakaminenga o Kāpiti conduct a 'recruitment' process similar to that undertaken by Greater Wellington Regional Council's Ara Tahi, where suitable applicants were chosen on the basis of best fit for the role. Council would consider the preferred candidates and confirm the appointments. It is proposed that appointees have full speaking and voting rights, but also the obligation to declare any conflicts of interest in relation to matters before the Standing Committee, just as any elected member would.

18 If this process is adopted this would mean that iwi appointees would be in place before the end of 2012. Given this timelag the governance structure amendments presented today include giving the Chair of Te Whakaminenga o Kāpiti (or his alternate) the ability to attend Council and/or Committee meetings, until such time as iwi appointees might be in place on the Committees.

**Financial Considerations**

19 If Council gives in-principle approval to the appointment of iwi representatives on Standing Committees these positions would need to be resourced accordingly. The resource implications would be dealt with through the 2012 LTP process. It is proposed that iwi appointees and the Chair of Te Whakaminenga o Kāpiti be paid a meeting fee of \$150 for attendance at meetings and Council workshops and this would involve an annual budget of around \$10,000.

20 If approval is given for the Chair of Te Whakaminenga o Kāpiti to attend Council and/or Committee meetings, for the 11/12 financial year a budget of around \$4,000 should be allocated for meeting fees. The budget for Councillor General Expenses is currently underspent so it is recommended to use this as the source.

**Legal Considerations**

21 The proposed amendments and change to Committee structure have been through legal review.

**Delegation**

22 The Council has the authority to consider this matter.

## Consultation

- 23 There are no consultation considerations. Council is not required to consult on its governance structure. However, if Council approves the appointment of iwi representatives, this change would be included in the Draft 2012 LTP for public comment.

## Policy Implications

- 24 There are no policy implications.

## Tāngata Whenua Considerations

- 25 Iwi have consulted within their hapū and whānau groups.

## Publicity Considerations

- 26 There is likely to be interest in the aspect of iwi representation and a media release has been drafted to this effect.

## RECOMMENDATIONS

- 27 That the Council approve the changes to the Governance Structure (21 April 2011 version) as detailed at Appendix 1 to Report Corp-11-282 and authorises the Chief Executive to update the document to reflect minor administrative changes, and to publish an amended Governance Statement.
- 28 That Council gives in-principle approval to the appointment of an iwi representative to each of the three Standing Committees that meet on a cyclical basis:
- Environment and Community Development
  - Regulatory Management Committee
  - Corporate Business Committee
- 29 Council notes that any resourcing implications of these appointments will be dealt with through the Long Term Plan process occurring in the first half of 2012.

**Report prepared by:**

**Approved for submission by:**

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## ATTACHMENTS:

**Appendix 1**

**Governance Structure (21 April 2011) with amendments**

**Appendix 2**

**Letter from the Chair of Te Whakaminenga o Kāpiti re preferred iwi representation options**