

1 October 2021

Request for Official Information responded to under the Local Government and Official Information and Meetings Act 1987 (LGOIMA) – reference: OIR 2122-71

I refer to your information request we received on 11 September 2021 for the following:

Timing

1. ***Given that the Council is required to conduct a representation review every 6 years, why has the Council decided now is a good time to make the proposed changes rather than in previous reviews (e.g. six years ago), when ratepayers and residents have limited capacity to evaluate the proposal and provide feedback?***
 - ***In 2021, ratepayers and residents are participating in at least two other significant Council consultation initiatives: Long-term plan and Growth Strategy.***
 - ***The community is burdened with managing other issues such as COVID-19, housing costs, managing income/expenses/debt and has limited capacity to think about, or understand the rationale for the timing of, this major change being proposed by Council to the Kapiti Coast District's representation.***

I agree that at the current time there are several important matters for members of our community to consider – first and foremost in their own lives, but also in relation to the Council's work programme for this year. The timing of the Representation Review is nonetheless unavoidable.

The Local Electoral Act 2001 (LEA) under section 19(h)(2) requires all local authorities to review their representation arrangements at least once every six years to ensure the arrangements provide fair and effective representation and represent their distinct communities of interest. The LEA requires local authorities to consider the needs of their communities as they exist at the time of the review, to ensure that representation arrangements are fair, effective, and representative of the area's current communities of interest.

In undertaking a representation review, we follow the best practice guidance of the Local Government Commission regarding what to consider, and how.

Council considered a range of factors in voting on the initial proposal for the representation review on 26 August 2021. Further information on the reasons for adopting the initial proposal is publicly available at the following links:

- [Council agenda and report dated 26 August 2021](#) you can also watch a recording of the Council meeting and deliberation here – [Part 1](#) and [Part 2](#))
- Representation review discussion document

- Resolution from Council meeting dated 26 August 2021 [available here](#)
- Presentations from Council representation review briefings on [1 June 2021](#), [29 June 2021](#), [27 July 2021](#) and [10 August 2021](#).

Engagement provider

2. How many expressions of interest did Council receive for the engagement work and from whom?

Council undertook a direct sourcing approach via a simple request for proposal to select Empathy Design. This was informed by an understanding of providers in the market, the timeframes associated with the Representation Review; staff capacity and capability; and the specialised requirements for this work. Empathy Design was selected based on their capability to deliver against the selection criteria, reference checks and samples of work provided.

3. What process and criteria did the Council use to select the preferred engagement provider, Empathy?

Please see the response to question 2 above.

4. Why did Council select Empathy – what relevant credentials and experience did Empathy have that other candidates didn't?

The requirements for this procurement are set out below:

The requirements	<p>Plan and deliver community engagement using a variety of methods and channels to inform the Council's Representation Review. Complete analysis of feedback received through engagement and provide written updates to inform the review.</p> <p>The business objective is to successfully complete the review on time, within legislated timeframes. The supporting engagement and communications objectives are to:</p> <ul style="list-style-type: none"> • inform audiences about council representation and the review • encourage and empower residents/communities to get involved with the review • build confidence in the review and in Council.
Mandatory requirements	<p>The engagement activities and subsequent analysis and reporting must be completed to the agreed timeframe. The ability to facilitate community meetings and focus groups is essential.</p> <p>Liaise with KCDC to get meetings/ focus groups or other events planned and booked in a timely manner to enable sufficient time to advertise to community.</p>

The selection criteria for the procurement process, and weightings for each, are outlined as follows:

- Experience delivering consultation or engagement of a similar type in a local government context (25%)
- Innovative thinking in approach that demonstrates a good understanding of our requirements (25%)
- Experience in facilitating community meetings (25%)
- Experience in analysing and reporting on submissions (25%).

The evaluation method was based on target price. Council also completed reference checks and requested samples of outputs from similar projects undertaken by the supplier.

Empathy design was selected on their ability to fulfil the above requirements and selection criteria, as well as the outcome of reference checks and sample outputs.

5. What is/was the cost of the consultant, Empathy?

The total cost of the consultant for preliminary engagement activities is \$85,000, and a summary of the activities undertaken with this total cost is attached to this letter.

Research

6. Which groups and how many individuals did Empathy/Council engage with during the ‘three phases of engagement and design research’ (refer to Empathy memo: ‘Community insight to inform and inspire Kāpiti Coast District’s representation arrangements, 9 July 2021’), and any other subsequent phases it conducted?

Pages 6 through 9 of Empathy’s Community Voice report outline the approach to the community engagement and design research, and in order to assist with responding to your request for information, Empathy have provided the following additional information:

“We used five different design research activities. Each was chosen and tailored to achieve the purpose of different phases of work, to ensure we heard from a wide mix of people, and to provide the robust and well-rounded understanding in a cost-effective way.

In the design research, we only sought and analysed input from people who are eligible to vote in Kāpiti Council elections. We analysed input from people who live in Kāpiti, and people who own property in Kāpiti but live elsewhere.

Three of the five activities – street intercept interviews, market pop-ups, online survey – did not involve prior recruitment of people. If people are eligible to vote in Kāpiti Council elections, we sought their contribution.

From time to time, people younger than voting age contributed, with permission from their guardian. For example, whole families would chat to us at the market pop-ups. We set that information aside for analysis.

People in specific geographic catchments were invited to come to each community workshop. People were invited by way of an unaddressed paper invitation placed in letterboxes. No other criteria was imposed.

We recruited and scheduled people for the long semi-structured interviews. We specifically targeted people unlikely to engage in the process otherwise. As a base screening, we asked whether people had put their view forward to council over the last six months. We asked this in a few different plain-English ways, and asked the nature of the input and frequency of prior input. As such, we started with a quantitative screening, then added a

qualitative screening to ensure we were targeting people unlikely to engage in the process otherwise.

In addition to meeting that base qualifying criteria, we aimed for a mix of other demographics in our semi-structured interviews – suburbs of residence, age, sex, income level, and employment type. We asked additional questions to allow us to get a mix of those criteria.

The people we spoke with from Paekākāriki did not meet our base qualifying criteria. Even when we dropped the threshold to three months (i.e. they had not put their view forward to council in the last three months), only a few people passed that screening question. They were then removed from consideration on further questioning, based on their likelihood of engaging with the process in other ways.

We used targeted direct channels to invite people. We started with a small database of people who are known to our recruitment specialist. That did not prove fruitful, as people who were interested in taking part did not meet our qualifying criteria. As a next step, we used telephone directories and cold-called people. We also engaged two people who had responded to us approaching and recruiting them on the street, who met the qualifying criteria.

We did not fact-check people's credentials for any of the design research activities. It is possible a person did not accurately respond to questions about living or owning property in Kāpiti, or prior engagement with council. But asking the questions clearly, our method of initial engagement – letterbox drop, cold-calling through white pages, advertisements in council channels, etc – and the responses received give us confidence that participants meet our criteria."

Empathy have advised they are not able to provide specific demographic information on respondents and interviewees who participated in preliminary engagement activities as this information is held in confidence, please see the detail below. As Council does not hold this information, we must decline this aspect of your request for information under section 17(g) of the Act.

"Tabulated results are held in confidence by the core project team. People we engaged with were promised that individual responses would not be shared. Even if name and contact details are removed, responses are very contextualised to each person's life, and is largely deemed to be 'person-identifying information'.

It is Empathy's policy to not share field notes or individual summaries of conversations except when strict protocol is agreed and established at the beginning of projects. This is a very rare occurrence. Putting those protocols in place for this project would have significantly impacted the quality, quantity and specificity of information received from people. That approach was not appropriate for this project."

7. How were these groups and individuals selected?

Information on the criteria for recruitment of participants to engagement activities is set out at page 8 of the Empathy Community Voice memo, which is publicly [available here](#).

In addition, please see the response to question 6 above.

8. Did Empathy/Council engage with/seek the views of established groups representing significant communities of interest, e.g. existing ratepayer representative groups and, if so, which ones?

As outlined in the [Empathy Community Voice report](#), in addition to preliminary engagement activities undertaken by Empathy Design, Council officers engaged with its Community Boards, Te Whakaminenga o Kāpiti, the Accessibility Advisory Group, Older Persons Council and the Youth Council as part of preliminary engagement activities.

As the initial proposal is now open for formal consultation, Council invites submissions from all other interested individuals and groups. Submissions close on 4 October 2021 and can be made here: [Representation Review | Have Your Say | Kāpiti Coast \(kapiticoast.govt.nz\)](#)

9. Given the Council's preferred option is to abolish the Waikanae Ward, did it seek the view of iwi and Waikanae ratepayer representative groups such as the Waikanae Beach Residents Society Incorporated?

Council engaged with the Waikanae Community Board and with its iwi partners throughout the review process. We are aware that members of the Waikanae Beach Residents Society Incorporated participated in an engagement session held in Waikanae Beach that was actively promoted to Waikanae Beach residents. Further information on the research and engagement process is set out within the [Council agenda and report dated 26 August 2021](#) and Council representation review briefings on [1 June 2021](#), [29 June 2021](#), [27 July 2021](#) and [10 August 2021](#).

10. If Empathy/Council did not engage with ratepayer representative groups, given this is an important democracy review with significant proposed changes to representation – why didn't they?

The purpose of preliminary engagement activities was to gather and analyse the community perspective to support Council in developing a representation model that provides for fair and effective representation, as well as representation of the district's different communities of interest.

Engagement and research activities were designed to ensure Council heard from a wide range of people and to provide robust and well-rounded analysis in time and cost-efficient way.

As the initial proposal is now open for public consultation, this is the opportunity for all groups and individuals within the community to make a submission and have their say on what the representation model for the district should look like. Submissions close on 4 October 2021 and can be made here: [Representation Review | Have Your Say | Kāpiti Coast \(kapiticoast.govt.nz\)](#) This opportunity has been promoted widely in an attempt to ensure broad awareness of the consultation.

11. What is meant by 'targeted' research and how was the 'targeted' research conducted? (refer to: 29 June 2021 presentation of options to elected members: "Our approach so far – targeted research and engagement to understand the community voice.")

'Targeted' refers to the approach taken by Empathy Design to select participants for design research activities, as well as the design research approach that was adopted. Refer to the additional information provided by Empathy Design in response to question 6 above.

12. What questions were asked during the ‘pre-consultation’/research process conducted by Empathy/Council and what were the statistical responses?

This information is already publicly available in response to another LGOIMA request and is [available here](#).

13. Were participants asked the question – “is there a need for change?”

Participants were not asked the question “is there a need for change?”. Further information related to this question is publicly available, as outlined in response to question 12 above.

Sequencing

14. When did the Council first raise awareness of the representation review with the community and through what channels?

Preliminary engagement activities related to the current representation review commenced in February 2021 as outlined in the [Council agenda and report dated 26 August 2021](#).

15. Why was the representation review, given its significance to ensuring/maintaining democracy, not flagged in the Long-term Plan 2021- 41 community consultation document ‘Securing our future – what matters most Kapiti’, as Council did with about the upcoming consultation on Council’s growth strategy? (Democracy matters a lot!)

The consultation document focuses on main topics for feedback including four key decisions Council needed community feedback on.

Representation reviews are a legislative requirement for every local authority, governed by the Local Electoral Act 2001. In addition to seeking preliminary engagement from across the district, Council is currently consulting on this proposal.

As an important project for our district, the representation review is referred to in the Long-Term Plan 2021-41 at page 225.

16. Why, given the significance and of where future growth of the district occurs and impact on representation, has the Council not consulted with Kapiti Coast District ratepayers and residents on the Growth Strategy before consulting on the Representation Review proposal?

Council is governed by legislative timeframes in conducting the representation review and must give notice of its final proposal by 17 November 2021 at latest. As such, Council is not able to determine the timing of its formal consultation process to ensure it aligns with other projects such as the Growth Strategy.

17. Why is Council only providing Kapiti Coast District ratepayers and residents with a one-month submission period for something as significant as the changes proposed in the Representation Review?

- **Compare this to the time given to Councils to evaluate and provide feedback on the Three waters reform (as noted by the Kapiti Coast District Council chief executive: “While the proposal has taken some 18 months to develop, we’ve been given an eight-week window to evaluate the WICs analysis and provide feedback. That’s not long.”)**

- ***From what I can ascertain on the Council's website, the representation review started at least, if not before 4 August 2020 when it first briefed elected members. This means the Council's Representation Review proposal has taken at least 13 months, but the community has only been given four weeks to evaluate and provide feedback. (Statistically, that's a lesser/inferior period of time than Council's being given to evaluate and provide feedback on the Three waters reform.)***
- ***According to Council's timetable, LGC determination is not due until 10 April 2022, so Council has given itself a generous four-month window between appeal objection period (20 December 2021) and LGC determination (10 April 2022).***

As outlined in response to question 16 above, Council is governed by legislative timeframes in conducting a representation review and must give notice of its final proposal by 17 November 2021 at the latest. There are a number of process requirements that must be considered as part of a representation review as well as decisions that must be made leading up to and as part of a representation review. For example, prior to commencing its representation review, Council was required to consider which voting system to adopt and whether to establish a Māori ward. The specific timing of this Council's adoption of its initial proposal and the resulting consultation, at the end of the period allowed for this in legislation, was selected to as to avoid an overlap between Representation Review consideration and decision making and the Long-Term Plan process.

Detailed information on the matters that must be determined as part of a representation review and decisions leading up to Council's current representation review are outlined in the [Council agenda and report dated 26 August 2021](#).

Please also refer to the [Local Government Commission Representation Review Guidelines](#) for further information.

18. Why is something so fundamentally important to democracy, being rushed through before Central Government's review of Local Government?

The representation review that Council is currently undertaking is a statutory requirement under the Local Electoral Act 2001 and as such Council's do not have a discretion to opt out of the process due to other factors such as Central Government's review of Local Government.

Representation and communities of interest

19. On what basis does Council consider 10 is the "optimum number of councillors"?

Further information in response to this question is publicly available within the following documents:

- [Council agenda and report dated 26 August 2021](#) you can also watch a recording of the Council meeting and deliberation here – [Part 1](#) and [Part 2](#))
- Representation review discussion document '[Have your say](#)'
- Resolution from Council meeting dated 26 August 2021 [available here](#)
- Presentations from Council representation review briefings on [1 June 2021](#), [29 June 2021](#), [27 July 2021](#) and [10 August 2021](#).

20. What is particularly distinct about Ōtaki's 'community of interest'? ("Ōtaki is one of the very distinct communities of interest so it is good that they are essentially a separate ward." Source: Council's 5 August 2021 briefing to Community Boards on their preferred option.)

Further information in response to this question is publicly available in the [Empathy Community Voice report](#).

21. Why does Council consider Waikanae no longer meets its ‘community of interest’ definition compared to Ōtaki?

Council does not consider that Waikanae is no longer a community of interest. Preliminary research and engagement activities identified different communities of interest within the district, including some communities of interest that were more similar (Waikanae and Paraparaumu), and others that were more distinct (Ōtaki and Paekākāriki).

Further information on the findings from the preliminary engagement are publicly available as follows:

- [Council agenda and report dated 26 August 2021](#) you can also watch a recording of the Council meeting and deliberation here – [Part 1](#) and [Part 2](#))
- [Empathy Community Voice report](#).

22. Was Waikanae’s special place in history taken into account when a decision was made to abolish the Waikanae Ward? (Refer: ‘Waikanae’ – Chris and Joan Maclean, in particular pages: 23, 27, 31, 35, 45, 49).

As is prescribed in legislation and guidance from the Local Government Commission, Council considered a range of factors and considerations in reaching the decision to adopt the initial proposal for public consultation on 26 August 2021. This is outlined in the [Council agenda and report dated 26 August 2021](#). Council did not specifically refer to the book ‘Waikanae’ by Chris and Joan Maclean, or the information outlined within, in carrying out this exercise.

Options and final selection

23. How many options in total were developed before developing a short-list of four then one preferred option?

On 1 June 2021 the engagement and research findings and the design principles elicited from them were presented to Council, community boards and iwi representatives. Early input was sought on the development of representation options by way of a high-level discussion about three different concepts.

Council’s representation review project team conducted a workshop to explore a range of potential representation scenarios in an effort to identify high-level concepts or options that best balanced the community views represented in the design principles, the input from elected members and iwi, and the legislative requirements. The relative strengths and weaknesses of each were considered in relation to ward size, the placement of boundaries, etc. Of these high-level options, four were shortlisted for further work and consideration, that best balanced the different requirements, design principles and feedback which were considered during the Council briefing on 29 June 2021. Please refer to the information provided in response to question 1 for further reference.

24. What were all the options?

To select the options that were shortlisted for Council consideration, a number of different scenarios were explored by Council’s representation review project team. Working documents produced by the project team are declined on the basis that the exchange will inhibit the future exchange of free and frank expression and consequentially prejudice the effective conduct of public affairs under section 7(2)(f)(i) of LGOIMA.

25. Was an option included:

- ***that provided Waikanae with more than one Ward Councillor (as currently with Paraparaumu)?***

The options that were considered did not include the Waikanae ward in its current form; however, some of the options considered did include more than one ward councillor for this area. Please refer to the information publicly available in response in question 1 and in particular the presentation for the Council briefing on 29 June 2021.

- ***that supported the community boards through providing secretariat support, more communications and engagement support etc i.e. the points made when 'selling' the proposed model to the elected members of 'Supporting a more direct relationship between councillors and communities'?***

Some of the options that were considered at the Council briefing on 29 June 2021 included community boards. At this stage, options were high level and did not comprehensively address all the specifics referred to in your question such as 'secretariat support, more communications and engagement support'; however, these considerations were discussed by Councillors in considering the different options and ultimately, deciding on an option for the initial proposal. Please refer to the information publicly available in response to question 1.

26. How were the options evaluated?

Please refer to the response at question 23 above.

27. What were the individual weightings given to each of the criteria (design principles?) against which the options were evaluated?

Please refer to the response at question 23 above. Individual weightings were not given to each of the criteria due to the design approach taken and this is not a requirement in developing options for an initial proposal in a representation review.

28. Was the rates burden vis a vis the different wards/communities of interest taken into account in the criteria i.e. ensuring an appropriate level of voice in proportion to the rates the different (existing) Wards pay?

No. The proportion of rates paid within each ward is not one of the factors the Council is required to take into account when considering representation.

29. What was the statistical analysis of the 'research' against each of the criteria i.e. how did each of the criteria score – e.g. how many people agreed, disagreed with each of the criteria?

We did qualitative research, and it is not good practise to treat qualitative data in a quantitative way, as your question asks us to do. We have not analysed the feedback in that way and are unable to provide the figures you ask for. Refer also to the response to question 6 above.

30. If, as one of Council's presentations to elected members on Council's website mentioned, only 150 people (0.26% of Kapiti Coast District's population estimated as at 30 June 2020, which is a statistically unrepresentative number of people), participated in the 'pre-consultation'/research process, and the recommended options were developed based on their responses, how can Council:

- *justify the options it put forward to elected members?*
- *justify the preferred option it is now asking ratepayers and residents to provide feedback on?*
- *justify the process used in the 2021 Representation Review and preferred option to the Local Government Commission, and any other independent body a ratepayer/resident could make a complaint to?*

In response to your three points above, information on the approach taken is set out in the [Council agenda and report dated 26 August 2021](#) and the other information referenced in response to question 1 above. Further information in response to this question does not exist and is therefore declined under section 17(e) of the LGOIMA.

Preferred option

31. If the 'design principles were intended to guide selection of the preferred solution, why is the preferred option inconsistent with the majority of the design principles? i.e: (taken from presentation given to community boards 5 August 2021)

- **Reflect distinct geographic communities of interest**
 - *Perception achieved through smaller wards and careful placement of boundaries*
- **Help ensure high-calibre representatives**
 - *Perception: achieved through bigger wards, at large*
- **Don't spread councillors too thin, ensure they can get across the people and issues**
 - *Perception: achieved through small wards, more councillors*
- **Support councillors' responsibility to reach out and hear from the community**
 - *Perception: achieved through small wards, community panels, community boards, council officers, (some concerns with that too)*
- **Ensure minority voices are heard, not overshadowed**
 - *Perception: achieved through careful boundary placement, and/or at large and not spreading councillors too thin*
- **Support the likelihood of councillors coming from across the district**
 - *Perception: achieved through small wards*
- **Give more focus to in-need suburbs, tackle inequity, foster equity**
 - *Perception: achieved through ward councillors who see local issues, and at large councillors who look across the district*
- **Build barriers to parochialism, support ability to look across the district, make it easier to do what's best for Kapiti as a whole**
 - *Perception: achieved through councillors coming from across the district yet not having to answer to their wards*
- **Ensure councillors hear from a diverse range of community voices, not just one type**
 - *Perception: majority perception this is not achieved through another layer of elected representatives*
 - *Minority perception this could be achieved by strengthening the role of community boards.*

As outlined in response to question 23 above, the design principles fed into the development of options for the initial proposal. Council does have a further comment in relation to the inference that the preferred option is inconsistent with the majority of the design principles.

Part of the information you have requested is attached. However, we have decided to refuse your request for information which relates to Council working documents (refer to question 24 above) which is withheld under the following section of the LGOIMA:

- 7(2)(f)(i) – to maintain the effective conduct of public affairs through the free and frank expression of opinions

In the Council's view the reasons for withholding or declining some of the information in this response is not outweighed by public interest considerations in section 7(1) favouring their release.

You have the right to request the Ombudsman to review any of the decisions made in this response. Complaints can be sent by email to info@ombudsman.parliament.nz, by fax to (04) 471 2254, or by post to The Ombudsman, PO Box 10152, Wellington 6143.

Ngā mihi



Janice McDougall

Group Manager People and Partnerships
Te Kaihautū, ngā Rangapū, Tāngata hoki