

Mayor and Councillors
COUNCIL

27 AUGUST 2015

Meeting Status: **Public**

Purpose of Report: For Decision

2015 REPRESENTATION REVIEW - CONSIDERATION OF SUBMISSIONS AND FINAL PROPOSAL

PURPOSE OF REPORT

- 1 This report asks Council to consider submissions to the Council's initial proposal for representation arrangements for the 2016 local body elections, and decide on a final proposal for those arrangements.

DELEGATION

- 2 Only Council may make this decision.

BACKGROUND

- 3 The Local Electoral Act (LEA) 2001 requires all councils to review their representation arrangements at least once every six years, with the intention of ensuring fair and effective representation for individuals and communities. Specifically the review should examine:
 - The membership of the local authority
 - The basis of election (by ward, or districtwide or a mixed system such as Kāpiti has)
 - The names and proposed boundaries of each ward and how those meet the test for fair representation under section 19V of the LEA (i.e. the '+/- 10% rule')
 - The names, membership and structure of community boards should they be retained or created. (Alternatively they may be disestablished).
- 4 After convening a Working Party in December 2014 to manage a preconsultation process the Council considered the recommendations of the Working Party on 16 June and issued an initial proposal for representation arrangements. A copy of the Council report (Corp-15-1591) and Council's resolutions are at Appendix 1.
- 5 In summary, Council's initial proposal maintained the status quo in respect of the number of Councillors (ten), the basis for their election (mixed system of wards and districtwide), and the names, numbers and membership of community boards (four boards, four elected members each, same names). This decision was based on a continuing 'best fit' for meeting the development needs of the District while also recognising the representation needs of geographically distinct communities. Council also accepted the recommendation of the Working Party to change the Ward boundary between Waikanae and Ōtaki Wards to match the community board boundaries, so that residents of Reikorangi and Huia Street,

formerly divided across Ward boundaries, would then reside in the same Ward and Community Board area (ie Waikanae). This decision was made with reference to the new enabling section 19V(3)(ii) of the LEA.

- 6 In accordance with statutory provisions Council advertised its initial proposal in local newspapers on 24 and 25 June, inviting submissions from the community. The decision was also publicised through public displays of the resolution, background material and maps in District Libraries and the Service Centres and followup explanatory articles. The deadline for submissions was 31 July.
- 7 The initial proposal was formally circulated through all four Community Boards, two of whom endorsed the initial proposal without amendment (Ōtaki and Paekākāriki), and two of whom decided to make a submission (Waikanae and Paraparaumu-Raumati). Copies of resolutions from the Community Board meetings are at Appendix 2. A number of submissions were also received from other organisations and members of the community. Four submitters indicated they wished to speak and Council heard three of these at the Council meeting on 11 August (the fourth could not attend due to illness). Although Council has already received all submissions in preparation for the hearing on 11 August, copies of them are at Appendix 3 for reference.
- 8 Council received a total of ten submissions summarised as follows:

SUB	NAME	COMMENTS
1	Lynette Wharfe	Supports the initial proposal especially in respect of the Ward boundary change
2	Federated Farmers of New Zealand	Generally supportive of Council's proposal to retain mixed system, Ward boundary change and retention of Community Boards. However, it is important to ensure stronger representation of rural concerns. Representation shouldn't be based purely on population. Isolated communities should be recognised as a special case. Proposes Council introduce a Rural Board to act as reference group to Council on rural issues
3	Waikanae Community Board	Supports the proposed boundary change but asks that the initial proposal be amended to include an additional meshblock so that residents of Aston Road and Kebbel Drive (Waikanae Downs) can be included in the Waikanae Ward area
4	Paraparaumu-Raumati Community Board	Requests the initial proposal be amended to include an additional elected member for the Board , bringing the number of elected members to five

5	ART Forum	Supports the initial proposal, noting the proposed ward boundary change better aligns with recognised iwi boundaries between Ngāti Raukawa and Te Āti Awa
6	Chrissie and John Greenhough	Asks Council to amend the initial proposal to include the residents of Aston Road and Kebbel Drive in the ward boundary change so that these residents are in the Waikanae Ward as well.
7	Gwynn Compton	Supports the initial proposal
8	Kapiti Grey Power	Supports the initial proposal
9	Neil Woodbury	Supports the initial proposal with regard to the ward boundary change
10	Murray Ballinger	Supports the initial proposal with regard to the ward boundary change

ISSUES AND OPTIONS

Preliminary considerations

- 9 The Council needs to consider all submissions received, and must be able to demonstrate that it has done this by providing reasons for the acceptance or rejection of submissions. The final proposal must be based on submissions or else the initial proposal needs to be retained. Otherwise the community has not had an opportunity to give feedback on the proposal and the community then has grounds to submit appeals and/or objections (see paras 52-53). This was borne out by legal advice obtained in relation to the 2009 review: “A section 19N decision that is not based on submissions may be unlawful or unreasonable.”
- 10 The Council must also ensure that it acts in a legally fair way in considering submissions. In particular, if any person exercises the right to be heard under section 19M (3) of the LEA, the LGC Representation Review Guidelines recommend that only local authority members who hear the submissions participate in the decision-making on those submissions¹.
- 11 The Council’s public notice of its final proposal under section 19N(2) LEA is required to state the reasons for any amendments and the reasons for any rejection of submissions, so the reasons must be recorded in the Council’s resolution on its final proposal.

Discussion of Issues raised in Submissions

- 12 All submissions generally support the Council’s initial proposal:

¹ LGC Guidelines: Representation Reviews (October 2014) p33, para 8.22

- A. Six of the ten submissions state particular support or draw particular attention to the Ward boundary change. Two submissions are from residents in Huia Street and one submission from a resident in Reikorangi – all supporting the proposed boundary change. Two submissions request the adjustment of the proposed boundary change to add another area into the Waikanae Ward.
- B. One submission requests Council consider the representation needs of the rural population and proposes that a Rural Board be set up to advise Council (as a reference group).
- C. One submission asked Council to add another elected member to the membership of a Community Board.

13 Each of the proposals at A, B and C are discussed in turn below.

A. Include additional area in the Ward boundary change

14 Residents in the Waikanae Downs area (Submission 6) argue that they should also be brought into the Waikanae Ward area, (they are currently in the Paraparaumu Ward) as they are closer to all the services in Waikanae, indeed much closer than residents of Reikorangi and Huia Street. They were 'astonished' on moving into the area to find that they were unable to vote for a Waikanae Community Board member or a Waikanae Ward Councillor, instead having to vote for Paraparaumu Ward Councillors when they are ten minutes' drive away from Paraparaumu and do not consider themselves Paraparaumu 'locals'. Their submission is supported by the Waikanae Community Board (Submission 3).

15 A map showing current Ward boundaries is at Appendix 4.

16 If Council decided to accept this amendment it would require the adjustment of the Ward and Community Board boundaries around an additional meshblock. The population of the Waikanae Downs area is around 150 people, so it would be a case of taking this group out of the Paraparaumu Ward/Paraparaumu-Raumati Community Board areas and placing them within the Waikanae Ward and Waikanae Community Board areas). As far as is practicable Ward and Community Board boundaries should align, and the splitting of meshblocks should be avoided (and in fact would *not* need to be split in this instance). A map at Appendix 5 shows the adjustment, and an accompanying table shows the impact of the addition on the +/- 10% rule. It does increase the degree of non-compliance but only minimally, and the same argument being made for the boundary change in the initial proposal could be made here ie reference to clause 19V(3)(ii) of the LEA, that the change is being made to avoid splitting a community of interest.

B. The representation needs of the rural community

17 The submission from Federated Farmers (Submission 2) argues that 'the weighting of representation solely on population takes insufficient consideration of rural communities and the particular financial and regulatory impact that council decision making has on the rural area and rural people'. The submission cites clause 19V(3)(a)(i) of the LEA which provides for non-compliance with the +/-10% rule for island communities or isolated communities. While supporting Community Boards, the submission argues that Board members do not have voting power around the Council table and calls for 'specific rural representation at the Council table' involving a Councillor that is 'in tune with the needs and issues of the farming community'. This could be achieved, the submitter

suggests, by Council establishing a formal Rural Board – not a rural ward - that acts as a reference group to Council on rural issues.

- 18 The arguments for the representation needs of the rural population are strongly articulated. However, the establishment of a Rural Board as a reference group is outside the scope of the representation review. The Council already has a number of Advisory Groups, and a number of other special interest groups with which it engages. With respect to the request for a Rural Advisory Board, either the present Council could consider it at a later meeting as part of a wider review of such advisory groups or make a recommendation to the incoming Council in 2016 to consider the issue. Either way, the proposal would carry resource implications which require a considered assessment. As it stands, the request cannot form part of today's deliberations.
- 19 Councillors, whether they are Ward Councillors or elected Districtwide, make a declaration of office to represent the interests of the whole District, not just any one group.
- 20 Although the submitter is not requesting the establishment of a separate rural ward, it is worth noting that this would be a matter for a representation review and indeed the model was proposed in the 2009 review but without gaining any traction amongst the community or elected members at the time, and it has not surfaced significantly in this current review during the preconsultation or submission phases. Since 2009 the District's rural population has decreased from 9% to 7%, (around 4,000 people, most of whom reside in Ōtaki) which is not to say that the argument for a rural ward is moot. The issue of ensuring fair and effective representation for communities is key and rests on more than the +/-10% rule compliance. However the Local Government Commission (LGC) Representation Review guidelines offer these comments on clause 19V(3)(a)(i) pertaining to isolated communities:
 - Isolation needs to relate to the ability of a community to receive appropriate representation by elected members
 - Isolation needs to be evidenced by things such as significant distance or travel time, or other physical/practical travel, and/or communications difficulties, or service reliability problems
 - For a community to have enhanced representation on the grounds of isolation, a significant proportion of the population of the area should be physically isolated
 - Physical separation alone may not necessarily constitute isolation
 - An area may not be isolated simply because it is rural in nature

C. Additional elected member for the Paraparaumu-Raumati Community Board

- 21 The submission from this Board (Submission 4) asks Council to amend its initial proposal by adding another elected member to the membership of the Board 'on the grounds of having the largest population in the District to represent, and due to the increasing workload of the Board'. The Board also cites as an additional rationale for the request: 'on a number of occasions the Ward Councillors have abstained from voting on issues brought before the Board, bearing in mind their obligation to vote at the Council table in the interests of the whole District'. An additional elected member, they argue, would 'provide fairer and more effective

representation at the grassroots level for the largest group of communities of interest’.

- 22 The Paraparaumu-Raumati Community Board represents at present a population of 28,500 (56% of the District), and has four elected members, which is 7,125 people per elected member. If an additional elected member was added this would reduce to 5,700 people per elected member. The Board currently has the same number of elected members as all the other boards.
- 23 Under clause 19F of the LEA every community board is to consist of not fewer than four members nor more than 12 members, and is to include at least four elected members. There may be appointed members also but the number of these is to be less than half the total number of members. Where there is a ward system in place the Ward Councillor/s must be appointed back to the Board (19F(3)(b)).
- 24 The request by the Board for additional membership was also raised during the 2009 review. At that time the Board did not think that appointing back two Ward Councillors would sufficiently address the greater workload of that Board. They requested an increase of the number of elected members from four to six.
- 25 The LGC in its 2010 determination, reflected:

We are not persuaded that population of the community is a sufficient argument to increase the number of elected members of the board. We understand that all boards, regardless of their respective populations, have a similar role. On this basis we have determined that the Paraparaumu-Raumati Community Board will continue to have four elected members. However, in line with the Council’s initial proposal we have determined that both ward councillors will be appointed to the Paraparaumu-Raumati Community Board. This is in recognition of the size of the community, and to provide for all ward councillors in the district to be appointed members of their local community board.

- 26 If Council agreed to increase the membership this would increase the overall numbers of elected members to 28. The Representation Review Working Party recommended that the total number of elected members not be increased as a result of the Review.

STEPS IN THE PROCESS

- 27 Taking into account the issues raised by the submitters as outlined above and at Appendix 3, the review needs to follow a step by step process:
 1. Identify the communities of interest in the District
 2. Review the number of members on the Council and decide what the appropriate number is required for the effective governance of the District
 3. Determine fair and effective representation for identified communities of interest of the District, including a review of the ward structure and ward boundaries
 4. Review Community Boards:
 - the need for existing and/or additional Community Boards
 - Community Board boundaries

- the number of members for each Community Board

Step 1 – identify communities of interest

- 28 While there is no legal definition of the term ‘communities of interest’, there are a number of defining characteristics which may be considered:
- A sense of community identity and belonging
 - Similarities in the demographic, socioeconomic and/or ethnic characteristics of the residents
 - Similarities in economic activities
 - Dependence on shared facilities in an area, including schools, recreational facilities and retail outlets
 - Physical and topographical features
 - The history of the area
 - Location of marae
 - Transport and communication links
- 29 There have been no new communities of interest identified through submissions.
- 30 It is notable that a number of submitters have pointed to the proximity of shared facilities (shopping outlets) and unique transport links (only one road in and out of areas) as reinforcing their support for the boundary change and that they identified more as part of one community over another.
- 31 For these reasons the recommendation is to retain the five communities of interest identified in Council’s initial proposal, as per recommendation 57.

Step 2 - review the number of Councillors required for effective governance

- 32 There were no submissions specifically on this issue so therefore no changes are recommended to the initial proposal of a Mayor (elected at large) and ten Councillors. However, it should be noted that if the request for an additional community board member is met, that will increase the overall number of elected members for the District.

Step 3 – determining fair and effective representation for the communities of interest including wards and ward boundaries

- 33 The Council must consider which basis for election (wards, districtwide or mixed) best meets the needs of the identified communities of interest. The legislation is neutral on whether a district should be divided into wards – where communities of interest are located in geographically distinct areas a ward system may be appropriate.
- 34 In its initial proposal the Council considered that continuing with a mixed system of five Ward Councillors and five Districtwide Councillors was the best fit for the District, enabling representation of its communities of interest in a way that recognised their geographically distinct natures, while also meeting the wider developmental needs of the District as a whole.

- 35 There were no submissions received objecting to the mixed system proposed. Six submissions supported the proposed structure (and the other submissions focussed more on the boundary issue).
- 36 In its initial proposal Council also voted to maintain the status quo in respect of the Ward boundaries except with a change that would align the Waikanae/Otaki Ward and Community Board boundaries. The LEA (clause 19T(1)(c)) says that so far as is practicable, ward boundaries should coincide with community boundaries. Council proposed the change in response to a longstanding issue identified by residents. The adjustment would see residents in Huia Street and Reikorangi brought into the Waikanae Ward area. As indicated above a number of submissions from residents support this change. Two submissions ask for the boundary change to go further and include an additional meshblock in the Waikanae Ward (moving it from the Paraparaumu Ward/Paraparaumu-Raumati Community Board) for the same reason ie to avoid splitting a community of interest.
- 37 If the boundary change, with or without this additional meshblock, is adopted as the final proposal the matter must automatically be referred to the LGC for final determination, as the change is non-compliant with the +/-10% rule for proportional representation. A recent amendment to the LEA allows Council to now make the argument to the LGC that keeping a community together is more important than mathematical conformity.
- 38 It is recommended that Council confirm its initial proposal in respect of a mixed system with five Ward Councillors and five Districtwide Councillors and confirm the same Ward structure and boundaries with the exception of an additional adjustment to the proposed boundary change for Waikanae and Ōtaki by adding an additional meshblock as per Appendix 5.

Step 4 – review of Community Boards

- 39 There were no submissions requesting that the Community Boards be disestablished or reduced so no changes to the initial proposal are proposed.
- 40 However, there was one submission calling for an increase in a Board's elected membership and Council may decide to do this, noting however that it would increase the overall number of Elected Members for the District, and that the two Ward Councillors must be appointed back to the Board.

CONSIDERATIONS

Policy considerations

- 41 There are no policy considerations.

Legal considerations

- 42 This report has been reviewed by legal counsel. The representation review is a statutory process prescribed in section 19 of the Local Electoral Act. Other relevant sections of local government legislation include Section 3, Section 10(1), Section 13, Section 14(1), and Sections 76(5), 77, 78, 81, and 82 of the Local Government Act 2002. Council may only amend its initial proposal in the light of submissions.

Financial considerations

- 43 Financial considerations should not dictate the kind of representation arrangements required to most fairly and effectively represent individuals and communities.

Tāngata whenua considerations

- 44 The ART forum has submitted (Submission 5) supporting Council's initial proposal and noting that the proposed boundary change aligns with recognised iwi boundaries for Ngāti Raukawa and Te Āti Awa.

SIGNIFICANCE AND ENGAGEMENT

Degree of significance

- 45 This matter has a high degree of significance under Council policy.

Consultation already undertaken

- 46 The initial proposal was formally circulated through a round of Community Board meetings during July.

Engagement planning

- 47 Engagement has occurred through prescribed statutory processes, including the calling and hearing of submissions.
- 48 Council's final proposal will be widely disseminated including through the next round of Community Board meetings and through Council Services Centres and Libraries as well as being advertised in local newspapers. The community's right to lodge appeals or objections will be highlighted.

Publicity

- 49 The Council's decision on its final proposal will be publicly advertised in accordance with statutory requirements in local newspapers on 2 and 3 September.

NEXT STEPS

- 50 When Council's final proposal is advertised this will signal the opening of a period when appeals and objections may be submitted against the proposal.
- 51 An appeal may be made by a submitter on the initial proposal on matters related to their original submission (clause 19O LEA).
- 52 An objection may be lodged by any person or organisation if a local authority's final proposal differs from its initial proposal (clause 19P LEA). The objection must identify the matters to which the objection relates.
- 53 The period for appeals and objections will close on Monday 5 October. There is no provision in the LEA for the acceptance of late appeals or objections.
- 54 If there are appeals or objections received the Council must refer the matter to the LGC for the final decision. However, if no appeals or objections are received

the Council will still have to refer the matter to the LGC as the final proposal would not comply with the '+/- 10% rule' (clause 19V).

CONCLUSION

- 55 Council is required to make a decision on its final proposal for representation arrangements applying to the 2016 local authority elections. This decision should be in the light of submissions received. Ten submissions were received, and four submitters spoke to their submissions. Council may consider additional amendments on two matters: an extension to the proposed boundary change, and an additional elected member for the Paraparaumu-Raumati Community Board.

RECOMMENDATIONS

- 56 That the Council receives Submissions 1 to 10 to the Council's initial proposal for representation arrangements, as adopted on 18 June 2015 and notes that these submissions are considered as part of the Council's deliberation and final proposal on representation arrangements for the 2016 local authority elections.

Communities of interest

- 57 That after considering the submissions the Council confirms its initial proposal and identifies that the distinct geographic communities of interest for the Kapiti Coast District are as follows, and notes that these will form the basis for consequent decisions regarding fair and effective representation:

Community	Descriptor/Reasons
Ōtaki	Separate township/s with associated rural areas, a major river and its own water supply
Waikanae	Separate geographic community of interest, with major river
Paraparaumu	Paraparaumu is the largest central community and therefore warrants separate recognition
Raumati	Although closely linked geographically with Paraparaumu it identifies itself as a distinct community
Paekākāriki	Separate village with a strong community of interest with a natural boundary at Queen Elizabeth Park in the north, and its own water supply

Number of Councillors

- 58 That after considering submissions Council confirms its initial proposal that for the 2016 local authority elections the Kapiti Coast District Council shall comprise a Mayor elected at large and ten Councillors, for the reason that there has been no call for change, and that the number of members has been working well to provide representation for a District of this size.

Ward system and basis of election

- 59 That after considering submissions Council confirms its initial proposal that for the 2016 local authority elections the Kapiti Coast District Council shall be

divided into four wards to provide the various geographically distinct communities of interest with effective representation. The four wards will be:

Ōtaki Ward

Waikanae Ward

Paraparaumu Ward

Paekākāriki-Raumati Ward

60 That after considering submissions Council confirms its initial proposal that for the 2016 local authority elections the Kapiti Coast District Council shall comprise a mixed system of representation and that the ten Councillors shall be elected as follows:

- 1 member from the Ōtaki Ward
- 1 member from the Waikanae Ward
- 2 members from the Paraparaumu Ward
- 1 member from the Paekākāriki-Raumati Ward (current boundary)

- 5 members elected Districtwide

61 That Council considers, in the light of submissions, to amend its initial proposal in respect of a change to ward boundaries:

Pursuant to clause 19V(3)(ii) of the Local Electoral Act 2001, the Council agrees:

(a) that the boundaries of the Ōtaki Ward and the Waikanae Ward be changed, to match those of the Ōtaki and Waikanae Community Boards, which will involve the addition of the following meshblocks to the existing Waikanae Ward (and removal of same from the Ōtaki Ward): 1883500, 1883600, 1883701, 1883703, 1883807, 1883808, 1883901, 1883902, 1883903, 1883904, 1884801, 1998502, 1998600, 1998700; and

(b) that the additional meshblock 1998404 be removed from the current Paraparaumu Ward and Paraparaumu-Raumati Community Board areas and added to the Waikanae Ward and Waikanae Community Board areas.

62 That, for the 2016 local authority elections the communities of the Kapiti Coast District will be represented by

EITHER: (status quo)

Ōtaki Community Board	4 elected members and 1 Ward Councillors
Waikanae Community Board	4 elected members and 1 Ward Councillors
Paraparaumu-Raumati Community Board	4 elected members and 2 Ward Councillors
Paekākāriki Community Board	4 elected members and 1 Ward Councillors

OR: (an amendment to the initial proposal in response to a submission by the Paraparaumu-Raumati Community Board)

Ōtaki Community Board	4 elected members and 1 Ward Councillors
Waikanae Community Board	4 elected members and 1 Ward Councillors
Paraparaumu-Raumati Community Board	5 elected members and 2 Ward Councillors
Paekākāriki Community Board	4 elected members and 1 Ward Councillors

63 That the reasons for any amendment to the Council's initial proposal is as follows: (to be completed in session).....

64 Pursuant to section 19N (2)(b) of the Local Electoral Act 2001, Council indicates that the submissions as listed at Appendix 3 of report Corp-15-1671 are accepted or rejected for the following reasons (to be completed in session):

SUB	NAME	Accepted/Rejected because...
1	Lynette Wharfe	
2	Federated Farmers of New Zealand	
3	Waikanae Community Board	
4	Paraparaumu-Raumati Community Board	
5	ART Forum	
6	Chrissie and John Greenhough	
7	Gwynn Compton	
8	Kapiti Grey Power	
9	Neil Woodbury	
10	Murray Ballinger	

Report prepared by **Approved for submission** **Approved for submission**

Vyvien Starbuck-Maffey Stephen McArthur Wayne Maxwell

Democracy Services Manager **Group Manager Strategy and Planning** **Group Manager Corporate Services**