

REPORT 1
(1215/52/IM & 1225/07/07/IM)

**REVIEW OF REPRESENTATION ARRANGEMENTS FOR THE
2013 LOCAL AUTHORITY ELECTIONS**

1. Purpose of report

The purpose of this report is to:

- outline the process the Council is required to follow now that the submissions on the Council's initial representation proposal have closed
- present for the Committee's consideration the submissions received on the Council's notified representation proposal for the 2013 local authority elections and to provide comments on these submissions
- provide relevant information to enable the Committee to agree a set of recommendations for the Council's consideration at its meeting on 24 October 2012.

2. Executive summary

A total of 15 submissions have been received on the Council's initial representation proposal.

The Council is now required to consider these submissions and to hear oral submissions from any of the submitters who wish to appear before the Council in support of their written submissions. All submitters were advised of their right to be heard and only two accepted the invitation to do so.

Following its consideration of both the written and oral submissions the Council is required to either confirm or amend its initial proposal and to publicly notify its final decision. The public notice must state the reasons for any amendments and the reasons for any rejection of submissions and notice must be given within six weeks after the closing date for the receipt of the submissions. The notice must also specify the right of submitters to appeal the Council's final decision, if the initial proposal is confirmed, or the right of any interested individual or organisation to object to the final decision if the initial decision is amended in any way. The closing date for the receipt of appeals or objections must not be earlier than one month after the date of the first or only publication of the public notice.

If any appeals or objections are received on the Council's final proposal the matter must be referred to the Local Government Commission (LGC) for its determination. The Commission's decision, which must be issued no later than 10 April 2013, is final and can only be appealed to the High Court as being erroneous in point of law. The determination will come into force for the 2013 local authority elections.

3. Recommendations

Officers recommend that the Strategy and Policy Committee:

1. *Receive the information.*
2. *Consider the written and oral submissions received on the Council's proposed representation arrangements for the 2013 local authority elections, as publicly notified on 4 September 2012.*

Note:

The Council, at its meeting on 29 August 2012, agreed to hear any oral submissions on the Council's representation arrangements on Tuesday 9 October 2012 (1pm – 4pm), with a reserve day of Wednesday 10 October 2012 should it be necessary.

Due to the low number of people wanting to make oral submissions and the fact that a meeting of the Strategy and Policy Committee was already scheduled to be held on 11 October it was decided that the meeting scheduled for the 9 October (and the reserve day 10 October) should be cancelled and that the oral submitters be heard on Thursday 11 October 2012.

Public notice of this change was advertised in the Dominion Post (on Wednesday 19 September 2012) well ahead of the scheduled meeting dates and the two submitters were notified, both verbally and in writing, of the change.

3. *Agree to recommend to Council that it:*
 - (a) *Agree the decision to elect the members of the Wellington City Council (other than the Mayor) under the ward system for the 2013 local authority elections be confirmed.*
 - (b) *Agree that the Council's initial proposal to divide the city into five wards for electoral purposes, as approved by the Council at its meeting on 29 August 2012 and publicly notified on 4 September 2012, be confirmed and that the names of those wards and the suburban communities of interest comprised within each of those wards be as follows:*
 - (i) *Northern Ward*
Comprising Churton Park, Glenside, Grenada North, Grenada Village, Horokiwi, Johnsonville, Newlands, Ohariu, Paparangi, Takapu Valley, Tawa and Woodridge (the boundaries of which are as shown on the attached Northern Ward Boundary Map dated July 2012 - Appendix 1).

- (ii) *Onslow/Western Ward*
Comprising Broadmeadows, Crofton Downs, Kaiwharawhara, Karori, Khandallah, Makara, Makara Beach, Ngaio, Ngauranga, Northland, Wadestown and Wilton (the boundaries of which are as shown on the attached Onslow/Western Ward Boundary Map dated July 2012 - Appendix 2).
- (iii) *Lambton Ward*
Comprising Aro Valley, part of Brooklyn, Highbury, Kelburn, Mt Cook, Mt Victoria, Oriental Bay, Pipitea, Te Aro, Thorndon and Wellington Central (the boundaries of which are as shown on the attached Lambton Ward Boundary Map dated July 2012 - Appendix 3).
- (iv) *Southern Ward*
Comprising Berhampore, part of Brooklyn, Island Bay, Kingston, Morningside, Newtown, Owairo Bay, Southgate and Vogelstown (the boundaries of which are as shown on the attached Southern Ward Boundary Map dated July 2012 - Appendix 4).
- (v) *Eastern Ward*
Comprising Breaker Bay, Hataitai, Houghton Bay, Karaka Bays, Kilbirnie, Lyall Bay, Maupuia, Melrose, Miramar, Moa Point, Rongotai, Roseneath, Seatoun and Strathmore Park (the boundaries of which are as shown on the attached Eastern Ward Boundary Map dated July 2012 - Appendix 5).

Note

No changes are proposed to the current ward boundaries as they all comply with the "fairness" provisions of the Local Electoral Act 2001 (LEA).

- (c) *Agree the decision to retain the level of elected members (excluding the Mayor) at 14 be confirmed and that the distribution of those members between the five wards be as follows:*

| | |
|----------------------------|----------------------|
| <i>Northern Ward</i> | <i>3 Councillors</i> |
| <i>Onslow/Western Ward</i> | <i>3 Councillors</i> |
| <i>Lambton Ward</i> | <i>3 Councillors</i> |
| <i>Southern Ward</i> | <i>2 Councillors</i> |
| <i>Eastern Ward</i> | <i>3 Councillors</i> |

- (d) *Agree the decision that the Tawa Community Board continue to operate within its current boundaries (as shown in Appendix 6), that the community not be subdivided for electoral purposes and that its existing membership of six elected members continue to be elected by the electors of the Tawa community as a whole, plus two appointed members, be confirmed.*

- (e) *Agree the decision that the existing boundary of the Makara/Ohariu Community Board be adjusted to exclude meshblock 2104603 from the current board area (as shown in Appendix 7), be confirmed.*
- (f) *Agree that, subject to the minor boundary alteration referred to in recommendation 3(e) above, the decision that the existing Makara/Ohariu Community Board continue to operate within its current boundaries (as shown in Appendix 7), that the community not be subdivided for electoral purposes and that its existing membership of six elected members (and no appointed members) continue to be elected by the electors of the Makara/Ohariu community as a whole, be confirmed.*
- (g) *Agree the decision that no further community boards be established across the city at this time be confirmed.*
- (h) *Agree that the wording of the reasons for the Council's decision, and its acceptance or rejection of submissions received on the Council's initial proposal dated 28 June 2006, be approved by the Portfolio Leader Governance and the Chief Executive.*

Note

The reasons for any Council's decision to amend its initial proposal and its rejection of any submissions received on it, must be included in the public notice that the Council is required to give, under section 19N of the Local Electoral Act 2001.

4. Background

The Council's "initial" proposal was adopted on 29 August 2012 and, in accordance with the requirements of the Local Electoral Act 2001 (LEA), was publicly notified in the Dominion Post on 4 September 2012. The notice invited persons with an interest in the Council's proposed representation arrangements to make written submissions on it, with submissions closing at 5pm on Friday 5 October 2012.

The basis of the Council's initial proposal was that:

- the members of the Wellington City Council (other than the Mayor) would continue to be elected under the ward system for the 2013 local authority elections
- the city would be divided into five wards for electoral purposes and that the names of those wards, and the communities of interest comprised within each of the wards, would remain and that there would be no boundary changes to those that currently exist

- the number of members to be elected by the electors of each of the wards, would be as follows:

| | |
|---------------------|---------------|
| Northern Ward | 3 Councillors |
| Onslow/Western Ward | 3 Councillors |
| Lambton Ward | 3 Councillors |
| Southern Ward | 2 Councillors |
| Eastern Ward | 3 Councillors |

- the Tawa Community Board would continue to operate within its current boundaries, that it not be subdivided for electoral purposes and it would retain its existing level of membership of six elected members and two appointed members
- the existing boundary of the Makara/Ohariu Community Board be adjusted to exclude meshblock No 2104603, that it not be subdivided for electoral purposes and that it retain its current membership of 6 elected members and no appointed members
- no further community boards would be established in the city at this time.

A total of 15 submissions were received on the Council's notified proposal.

As required by section 19M (3) (ii) of the LEA, all submitters were given the opportunity to be heard by the Council in support of their submissions. Only two submitters indicated that they wished to be heard. One of the submitters was heard by the Strategy and Policy Committee on 11 October 2012. The other submitter did not attend the meeting despite having had his scheduled time slot confirmed both verbally and in writing.

The Council is now required to consider these submissions and, following those considerations, either confirm or amend its initial proposal.

5. Discussion

5.1 Summary of submissions received

A breakdown of the 15 submissions received is as follows:

| Category | Number Received | Submission Numbers |
|---|-----------------|--------------------|
| Submissions in full support of the Council's initial proposal | 7 | 1-7 |
| Submissions in partial support of the Council's initial proposal | 1 | 8 |
| Submission in support of a reduction in the number of Councillors | 1 | 9 |

| | | |
|---|----------|--------------|
| Submissions in support of the establishment of more community boards | 2 | 10-11 |
| Submissions opposed to the ward system as the Council's basis of election (i.e. in favour of the at-large system) | 4 | 12-15 |

The submissions and officers' comments on those submissions are attached as Appendix 8.

5.2 Comment on submissions received

5.2.1 Submissions in support (Nos 1–7)

Of the 15 submissions received, seven supported the Council's proposal in all respects. No reasons for their support were provided in a number of cases.

5.2.2 Abolition of Tawa Community Board (No 8)

The future of both the Tawa and Makara/Ohariu Community Boards was fully canvassed as part of the 2007 representation review. The Council's initial proposal was to abolish the Tawa Community Board however the feedback from the Tawa community at that time clearly showed that the efforts of the Board were valued. A number of reasons were given why Tawa's community of interest is distinct and different and why the Board should be retained to ensure the effective representation of the community's interests and fair representation for its electors. Submitters stated, and the Council agreed, that the fact other communities did not appear to want community boards was no reason why Tawa should have its Board taken away.

Nothing appears to have changed since then. The Board retains the support of its community and their work is valued by both its residents and the Council. It is therefore recommended that the Tawa Community Board be retained.

The question of fairness (i.e. some areas have a community board and an additional level of representation while others don't) is often raised as an issue. However, the fact that other communities appear not to want community boards is not a valid reason for existing boards to be abolished.

5.2.3 Adjustment to current ward boundaries (No's 8)

The suggestion that Mt Cook be transferred from the Lambton Ward into the Southern Ward and that the number of Councillors in the Southern Ward be increased from 2 to 3 could not be supported because it does not comply with the "fairness" criteria required by the legislation.

The ratio of population per member under this option ranges from 1:10,867 for the Southern Ward (an over representation of 18.6%) and 1:22,850 for the

Northern Ward (an under representation of 14.1%), both of which are well outside the permitted variance of +/- 10%, as required under section 19V(2) of the Local Electoral Act 2001.

5.2.4 Reduction in Councillor numbers (No 9 and 12)

Submission 9: The suggestion that each of the current five wards elect two Councillors each (a reduction in the number of Councillors from 14 to 10) does not comply with the “fairness” criteria required by the legislation. The ratio of population per member under this option ranges from 1:13,850 for the Southern Ward (an over representation of 30.8%) and 1:22,850 for the Northern Ward (an under representation of 14.1%), both of which are outside the permitted variance of +/- 10%, as required under section 19V (2) of the Local Electoral Act 2001.

Submission 12: It would be difficult to meet the required “fairness” criteria under a ward system electing 7 Councillors without substantial ward boundary changes. The representation ratio (of population per Councillor) with 7 Councillors would be substantially increased from the current 1:14,300 to 1:28,600. The minimum number of elected members for a territorial authority provided for under the Local Electoral Act 2001 is 6 (including the Mayor). Only two submissions were received proposing a reduction in the number of Councillors which is not sufficient to support such a drastic reduction in the number of elected members.

5.2.5 Establishment of more community boards (Nos 10-11)

The current legislation provides the opportunity for any interested community to request the establishment of a community board any time outside of the representation review process (Section 3, Schedule 6 of the Local Government Act 2002). A proposal to establish a community requires the signatures of not less than 10% of the electors of a continuous area within the district of a territorial authority, having a population of 1,500 or more.

Apart from a submission received from the Newlands Paparangi Progressive Association some years ago indicating some community support for the establishment of a community board for Newlands, Paparangi and Woodridge, no formal proposals have been received to date. The Newlands area aside there would appear to be little or no public support for any more boards to be established in the city at this time.

It is appropriate to note that under the review of community boards there is no requirement for the Council to take into account the “fairness of representation” criteria when considering whether other areas of the local authority district have, or do not have, community boards. The “fairness” principle applies to the representation of Councillors (in respect to population distribution per elected member under the ward system) and to the election of community board members only where a community board has been subdivided for electoral purposes. Neither the Tawa nor Makara/Ohariu Community Boards are subdivided for electoral purposes.

5.2.6 Basis of Election - Ward or At-Large (Nos 12 - 15)

The Council has elected its members under the ward system since 1986. Its continued use of the ward system as its basis of election has not only been supported by the Local Government Commission in all the reviews that have been undertaken since 1986 but also by the vast majority of electors who have taken part in the preliminary representation review consultations that the Council has undertaken over a number of years.

Section 19T of the LEA requires the Council, when determining the basis on which its members are to be elected, to ensure that the election of its members “will provide effective representation of communities of interest within the district”. The Local Government Commission must also take this provision into account if the review is referred to it for determination.

The view of both the Council and the LGC in the past has been that the effective representation of the electors of Wellington City is best achieved under a ward system.

In its determination issued on 7 April 2004, the LGC made the following comments in relation to the effective representation of communities of interest within Wellington city:

“that because of the diversity of the city, effective representation of communities of interest could only be achieved by Councillors being elected on a ward basis”

That statement was made knowing that the Council was required to hold its 2004 election under the STV voting system.

The Council is still of the view that the ward system continues to achieve the most effective local representation of people and communities in Wellington.

The suggestion (in Submission No 14) that the Council should formally consult on a range of initial options is noted. The legislation requires the Council to adopt and notify its ‘initial proposal’ no later than 8 September (in the year immediately before the year of a triennial election). It does not have the ability to notify and consult on a “range” of initial options.

Although there is no legislative requirement for Council to undertake any preliminary consultation prior to commencing the formal statutory representation review process, a number of local authorities (including the Wellington City Council as the FWPRAs will be aware) have carried out reasonably extensive preliminary consultations at an early stage to help in the development of its ‘initial’ proposal.

However, with so much focus and publicity on the question of future regional governance in the Wellington region and the degree of consultation being undertaken on that issue by both Wellington City and the GWRC, it was agreed that no preliminary consultation be undertaken on this occasion as to have done so could have caused considerable confusion in the community.

5.2.7 Formation of Super Council or similar (No's 8 and 9)

The formation of a super Council is not legally possible under current legislation. It is however one of the options that is being considered as part of the current regional governance discussions. The maximum number of elected members permitted under a 'merged' Council option is 30, including the Mayor.

5.2.8 STV Voting System

A poll of electors was held in 2008 to determine which voting system the Council would use to elect its members for the 2010 and 2013 local elections. The poll favoured the use of STV and as a result the Council must continue to use that voting system until at least the 2013 triennial election.

5.3 Minor boundary adjustment – Makara/Ohariu Community Board

The Makara/Ohariu Community Board has confirmed in its submission their support for the exclusion of meshblock no 2104603 from the current board area.

We have received confirmation from Statistics New Zealand that they are prepared to approve this boundary adjustment if the Council confirms its decision to exclude this meshblock from the current Board area.

5.4 Notification of final decision

The Council is required to publicly notify its final decision within six weeks of the closing date of the receipt of submissions on its initial proposal (i.e. by 15 November 2012).

The public notice must:

- incorporate any amendments that the Council may make to its initial proposal;
- state both the reasons for any amendments to its initial proposal and the reason for any rejection of the submissions;
- specify the right of appeal, informing the place and closing date for the receipt of appeals, if the initial proposal is confirmed;
- in the event that the Council amends its initial proposal, specify the right of objection, indicating the place and closing date for the receipt of objections.

It is recommended that the Portfolio Leader, Governance and the Chief Executive be given authority to approve the final wording of the reasons for any amendment to the Council's initial proposal and the reasons for any rejection of submissions, before the public notice is given.

The closing date for the receipt of appeals or objections must be no earlier than one month after the date of the public notification of the Council's decision.

If no appeals or submissions are received the Council's "final" proposal becomes the basis on which the 2013 local authority elections are held.

If appeals or objections are received they must be referred to the Local Government Commission for its decision. The determination released by the Commission is final and must be issued no later than 10 April 2013.

5.5 Consultation and Engagement

The Council's initial proposal has been notified in accordance with the provisions of the LEA and 15 submissions were received.

Following its consideration of those submissions the Council must either confirm or amend its initial proposal as its final proposal, and notify that decision.

The Council's final decision must be notified no later than 15 November 2012 and any appeals or objections received to that proposal must be referred to the LGC for its consideration and determination. The Commission's determination must be issued by 10 April 2013.

5.6 Financial considerations

There are no financial considerations.

5.7 Climate change impacts and considerations

No climate change impacts or considerations.

5.8 Long-term plan considerations

There are no long-term plan considerations.

6. Conclusion

The Council is required to consider the submissions received on its initial proposal and, following those considerations, either confirm or amend its earlier decision and publicly notify its final decision.

The Council's final decision must be publicly notified within six weeks of the closing date for the receipt of the submissions (i.e. by 15 November 2012).

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SUPPORTING INFORMATION

1) Strategic fit / Strategic outcome

The policy supports Council's overall vision of Wellington Towards 2040: Smart Capital. The policy supports Outcome 7.2.B – More actively engaged: Wellington will operate an open and honest decision making process that generates confidence and trust in the democratic system.

2) LTP/Annual Plan reference and long term financial impact

The project relates to C534: Elections, Governance and Democratic Process and has no long term financial impact.

3) Treaty of Waitangi considerations

There is no Treaty of Waitangi considerations.

4) Decision-making

This is not a significant decision. The report sets out the process the Council is now required to follow in making and notifying its decision on the submissions it has received on its initial representation review proposal.

5) Consultation

a) General consultation

The Council's initial proposal has been publicly notified and submissions from interested individuals and organisations were invited in accordance with section of 19M of the Local Electoral Act 2001. Submissions closed on Friday 5 October 2012

b) Consultation with Maori

Separate consultation with Maori was not required.

6) Legal implications

There are no legal implications.

7) Consistency with existing policy

The report is consistent with existing Council policy.