
REPORT 4

(1215/13/IM, 1225/07/06/IM)

2006 REPRESENTATION REVIEW

1. Purpose of Report

To seek the Board's recommendations on the review of the Council's representation arrangements that the Council has agreed to undertake in time for the 2007 local authority elections.

2. Executive Summary

The Local Electoral Act 2001 (LEA) requires all local authorities to review their representation arrangements at least once every six years. Although not legally required to carry out its next review until 2009, the Council has decided it will carry out another review this year, in time for the 2007 local authority elections.

In carrying out this review the Council is required to take a number of factors into account and to comply with various legislative provisions within strict timeframes.

This report sets out the process and the timeframe the Council is required to follow in undertaking this review. It also outlines the relevant issues that the Council must consider when reviewing its communities and community boards as part of its overall representation review and seeks input from the Board on those matters in particular. The closing date for the receipt of these written submissions is Wednesday 31 May 2006.

3. Recommendations

It is recommended that the Board:

- 1. Receive the information.*
- 2. Note the process and the timeframe the Council is required to follow in carrying out this review (as set out in Appendix 2).*
- 3. Note and consider the issues that are required to be reviewed and submit its recommendations on those issues (no later than 31 May 2006) for consideration by the Strategy and Policy Committee at its meeting to be held on 15 June 2006.*

4. Background

The Council is required to review its representation arrangements at least once every six years. The Council carried out its last review in 2003, in time for the 2004 election, and is therefore not legally required to carry out its next review until 2009 (in time for the 2010 local authority election).

However, in confirming its representation proposal on 30 October 2003, the Council agreed that a further representation review would be completed in time for the 2007 local authority elections to enable a full review of community boards to be undertaken.

The Council reviewed that decision at its meeting on 6 April 2006 and decided to continue with the review.

Every time it carries out a representation review the Council is also required to undertake a review of community boards. This requirement applies to all territorial authorities carrying out representation reviews, not just those that currently have constituent community boards.

It is important to note that all the elements of a proposal relating to community boards are subject to the same rights of appeal and/or objection to the Local Government Commission (LGC) and the Council therefore needs to ensure that any community board proposal receives the same level of care and consideration as all other elements of the review.

5. Discussion

5.1 *Review of Community Boards*

In carrying out its representation review the Council must consider whether community boards may be appropriate to provide fair and effective representation for individuals and communities in its district. The review provides a process whereby the Council can propose the constitution of new boards or the disestablishment/amalgamation of existing boards.

It must specifically decide whether:

- there should be communities and community boards within the Council's district; and
- if so, the nature of any community and the structure of the community board.

The Council is also required to have regard to the appropriate reorganisation criteria as provided in the Local Government Act 2002 (LGA). Those criteria are detailed in clause 3 of Schedule 3 to the LGA, and are set out in **Appendix 1**.

Applying those criteria for community board reviews means that the following matters need to be considered by Council:

- will the proposal promote the good local government of the parent district and the community area concerned?
- would the district and the community have the resources necessary to enable it to carry out their respective responsibilities, duties and powers?
- would the district and the community encompass an area that is appropriate for the efficient and effective exercise of its responsibilities, duties and powers?
- would the district and community contain a sufficiently distinct community of interest or sufficiently distinct communities of interest?

- would the district and the community be able to meet the decision-making requirements of section 76 of the LGA, to the extent that they are applicable?

An existing community board may be abolished or united with another community board, and the boundaries of a community board may be altered, by:

- (a) an Order in Council giving effect to a reorganisation scheme; or
- (b) the territorial authority or the Local Government Commission as part of a review of the territorial authority's representation arrangements.

A community board may be established in any part of a council district but must be wholly within that district. Unless an existing board is abolished a new community board cannot be constituted for any part of a district if a community board is already constituted for that part of that district. The boundaries of any community board must be of a continuous area.

The Act allows the area of a community board to be subdivided for electoral purposes. The division of a community board into electoral subdivisions may be appropriate when the community board area is made up of a number of distinct communities of interest at the local level, and the formation of subdivisions will provide effective representation of communities of interest. The members of a community board may therefore be elected at-large by the community, by a subdivision of the community, or by ward if the community contains two or more wards in the city.

5.2 Issues for consideration

The Council must take the following factors into account when carrying out a review of community boards:

- (1) Every community board:
 - (a) is to consist of not fewer than four members nor more than 12 members
 - (b) is to include at least four elected members
 - (c) may include appointed members.
- (2) The number of appointed members is to be less than half the total number of members.
- (3) The persons who are appointed under subsection (i)(c) as members of the community board must:
 - (a) be members of, and must be appointed by, the territorial authority for the district in respect of which the community is constituted
 - (b) if the territorial authority is divided into wards, also be members of the territorial authority representing a ward in which the community is situated.
- (4) The part of a district in respect of which a community is constituted may be subdivided for electoral purposes.

- (5) Each subdivision must elect at least one member of the community board.
- (6) If a community comprises two or more whole wards, the elected members of the community board may be elected by the electors of each ward.
- (7) If the community is not subdivided for electoral purposes, the members of the community board must, unless they are to be elected in any case to which paragraph (6) above applies, be elected by the electors of the community as a whole.
- (8) If a community is subdivided for electoral purposes or if the members of the community board are to be elected in any case to which paragraph (6) above applies:
 - (a) each member of the community board who represents a subdivision must be elected by the electors of the subdivision
 - (b) each member of the community board who represents a ward must be elected by the electors of that ward.

Having taken these factors into account, the LEA requires the Council to determine, by resolution, the following specific matters:

- (a) whether one or more communities should be constituted
- (b) whether any community should be abolished or united with another community
- (c) whether the boundaries of a community should be altered
- (d) whether a community should be subdivided for electoral purposes or whether it should continue to be subdivided for electoral purposes, as the case may require
- (e) whether the boundaries of any subdivision should be altered
- (f) the number of members of any community board
- (g) the number of members of a community board who should be elected and the number of members of a community board who should be appointed
- (h) whether the members of a community board who are proposed to be elected are to be elected:
 - (i) by the electors of the community as a whole
 - (ii) by the electors of two or more subdivisions
 - (iii) if the community comprises two or more whole wards, by the electors of each ward.
- (i) in any case to which paragraph (h)(ii) applies:

- (i) the proposed name and the proposed boundaries of each subdivision
- (ii) the number of members proposed to be elected by the electors of each subdivision.

To assist the Council in its consideration of these issues it would be useful and appropriate to receive the Board's submissions on the discussion document, and in particular its response to the following questions:

- should the Makara/Ohariu Community Board continue to operate?
- if so, should it continue to operate as it currently is or should it be united with another (adjacent) community?
- are any boundary adjustments required (i.e. does the area over which the Board has jurisdiction need to be re-defined)?
- do the Makara and Ohariu communities, or any new proposed community board, need to be subdivided for electoral purposes?
- if so, what should the boundaries and the names of those subdivisions be?
- how many members should be elected to the Board?
- should any members be appointed to the Board and if so how many?
- should the members of the community board be elected –
 - (a) by the electors of the community as a whole; or
 - (b) by the electors of two or more subdivisions?
- if (b) above applies, how many members should be elected by the electors of each subdivision?

It would be appreciated if these questions could be considered by the Board and if its responses could be provided by no later than Wednesday 31 May 2006. The Board's comments will be taken into account when the Council makes its "initial" decision in late June.

5.3 Discussion Document

The Council has released a public discussion document setting out the key issues that must be considered when carrying out a representation review, including its review of community boards. The document includes a questionnaire and some alternative representation options on which the Council is seeking public feedback.

A copy of this document has been sent to a range of interested groups and is publicly available at all branch libraries and service centres. Copies of the document and the

questionnaire can also be downloaded from the Council's website. A copy has also been sent to all Board members.

All feedback, including any alternative proposals that people might come up with, will be taken into account before the Council makes its initial decision in June 2006.

5.4 Process following "initial" decision

The Council is required to make an "initial" decision on what its representation arrangements for the 2007 election will be by no later than 31 August 2006. It is intended that the Council will make this "initial" decision at its meeting on 28 June 2006.

Once this decision is made the formal statutory review process commences. The decision is notified and is open for public consultation. The Makara/Ohariu Community Board has the ability to make submissions on that proposal if it so wishes. The Council must consider any submissions it receives on its initial proposal and, following those considerations, either confirm or amend its earlier decision and issue its final decision.

The Council's final decision must be publicly notified before 19 November 2006 and, if any appeals or objections are received to that proposal, the matter must be referred to the LGC for its determination. The LGC is required to issue its decision before 11 April 2007 and its decision is final.

5.5 Timetable

The LEA clearly sets out the legislative timeframes the Council is required to comply with in carrying out a representation review.

A proposed timetable has been developed based on those timeframes and is attached for the Committee's information (**Appendix 2**). The deadlines that must be met have been bolded for easy reference.

6. Conclusion

The Council is required to adopt its "initial" representation proposal no later than 31 August 2006. This proposal must include decisions taken on a range of issues in relation to the review of community boards that the Council is required to undertake

It is intended that the Council will adopt its initial proposal on 28 June 2006 and it is therefore important to receive any feedback from the Makara/Ohariu Community Board on the various issues outlined in this report by 31 May 2006 at the latest.

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Supporting Information

1) Strategic Fit / Strategic Outcome

*This supports the objective 9.2 City decision-making:
People are encouraged to participate in the decision making of the city.*

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

Relates to C534: Committee and Council process. It is not possible at this stage to identify what financial impact, if any, this review might have.

3) Treaty of Waitangi considerations

There are no Treaty implications.

4) Decision-Making

This is not a significant decision.

5) Consultation

General Consultation and Consultation with Maori

A discussion document on the review has been released. Further detailed discussions will take place over the next few months.

6) Legal Implications

There are various legal requirements and processes that must be adhered to. These are set out in the report and are also covered by the guidelines that have been released by the Local Government Commission.

7) Consistency with existing policy

The report is consistent with existing policy and complies with the requirements of the Local Electoral Act 2001.

Criteria for reorganisation schemes (as prescribed in Schedule 3 of the Local Government Act 2002)

Subpart 2—Criteria to be considered

3 Promotion of good local government

- (1) When considering a reorganisation proposal or scheme, the joint committee of the affected local authorities or the appointed local authority or the Commission must satisfy itself that the proposal or scheme will—
 - (a) promote good local government of the districts or regions concerned; and
 - (b) ensure that each local authority provided for under the proposal will—
 - (i) have the resources necessary to enable it to carry out its responsibilities, duties, and powers; and
 - (ii) have a district or region that is appropriate for the efficient and effective performance of its role as specified in section II; and
 - (iii) contain within its district or region a sufficiently distinct community of interest or sufficiently distinct communities of interests; and
 - (iv) be able to meet the requirements of section 76.
- (2) When considering the matters specified in subclause (1) in relation to any reorganisation proposal or scheme, the joint committee of the affected local authorities or the appointed local authority or the Commission must have regard to—
 - (a) the area of impact of the responsibilities, duties, and powers of the local authorities concerned; and
 - (b) the area of benefit of services provided; and
 - (c) the likely effects on a local authority of the exclusion of any area from its district or region; and
 - (d) any other matters that it considers appropriate.

4 Appropriate boundaries

In determining boundaries under any reorganisation proposal or scheme, the joint committee of the affected local authorities or the appointed local authority or the Commission must ensure that,—

- (a) if practicable, the boundaries of regions conform with catchment boundaries; and
- (b) if practicable, the boundaries of districts conform with the boundaries of regions; and
- (c) the boundaries of regions and the boundaries of districts conform with the boundaries of statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes.

5 Representation

If a joint committee of the affected local authorities or the appointed local authority or the Commission is required to determine the membership of a local authority as a consequence of any reorganisation proposal or scheme, the joint

APPENDIX 1

committee of the affected local authorities or the appointed local authority or the Commission must—

- (a) provide fair and effective representation for individuals and communities of that local authority; and
- (b) comply with the requirements of the Local Electoral Act 2001; and
- (c) take into account the responsibilities, duties, and powers of that local authority.

6 Minimum populations of districts and regions

A reorganisation proposal may not proceed if the implementation of that proposal would result in the constitution of—

- (a) a district with a population of less than 10,000 persons; or
- (b) a region having both a separately elected regional council and a population of less than 50,000 persons.

7 Cities

A reorganisation scheme issued under subpart 4 may not provide that a territorial authority is to be called a city council unless the scheme provides for the constitution of a new district and the district—

- (a) has a population of not less than 50,000 persons; and
- (b) is predominantly urban; and
- (c) is a distinct entity and a major centre of activity within the region.

APPENDIX 2

Timetable for 2006 Representation Review

Task	Proposed Date	Legislative Deadline
Deadline for Council decision to hold a poll on Maori representation	N/A	28 February 2006
Deadline for receipt of public demand for a poll on Maori representation	N/A	28 February 2006
Report to Strategy and Policy Committee: <ul style="list-style-type: none"> • Consultation Plan • Timeframe • Discussion Document 	6 April 2006	N/A
Recommendation to Council (from SPC)	6 April 2006	N/A
Discussion document released for consultation with the public	Mid April to late May 2006	N/A
Report to Strategy and Policy Committee recommending “initial” proposal	15 June 2006	N/A
Council to adopt “initial” proposal	28 June 2006	31 August 2006
Public notification of initial proposal (calling for submissions)	8 July 2006	8 September 2006
Close of public submissions	28 August 2006	8 October 2006
Council to hear/consider submissions	Week commencing 4 September 2006	Before 19 November 2006
Report to Strategy and Policy Committee recommending “final” proposal	21 September 2006	Before 19 November 2006
Council decision on “final” proposal	27 September 2006	Before 19 November 2006
Public notice of the Council’s “final” decision	7 October 2006	19 November 2006
Close of public appeals/objections to “final” proposal	10 November 2006	20 December 2006
All documentation to LGC (if any appeals/objections are received)	24 November 2006	15 January 2007