

ITEM 178 HIS WORSHIP THE MAYOR - VERBAL REPORT

ITEM 179 REPRESENTATION REVIEW – INITIAL PROPOSAL FOR CONSULTATION

TO: HIS WORSHIP THE MAYOR AND COUNCILLORS

ŌTOROHANGA DISTRICT COUNCIL

FROM: GROUP MANAGER CORPORATE

DATE: 17 AUGUST 2021

Relevant Community Outcomes

- Engaged Ōtorohanga
- Proud Ōtorohanga
- Empowered Ōtorohanga



Executive Summary

In April 2021, Ōtorohanga District Council resolved to establish Māori wards for the 2022 triennial local government elections. Council is now required under the Local Electoral Act 2001 (LEA) to undertake a review of its representation arrangements for the 2022 local government elections (refer to cl 1(1), Schedule 1A to the LEA).

The last representation review was undertaken in 2018. Council's current representation arrangements as approved at the time of that review are: Mayor (elected 'at large'), 7 Councillors (elected from five wards) and two community boards. Four community board members elected to the Kāwhia Community Board (three members elected to represent the Kāwhia town subdivision and one member elected to represent the Aotea subdivision) and four community board members elected to the Ōtorohanga Community Board.

Council has held two recent workshops to discuss its future representation arrangements. Elected members' feedback from those workshops has been incorporated into the initial proposal presented for adoption at this meeting. Council has also been working closely with its iwi and hapū partners to prepare this initial proposal.

Recommendation(s)

It is recommended that:

1. Council in accordance with sections 19H and 19J of the Local Electoral Act 2001, adopts as its initial proposal for the review of representation arrangements:
 - a) Ōtorohanga District Council comprising of 9 councillors elected under the ward system, plus the Mayor elected at large, with all wards identified in Attachment 1.
 - b) Ōtorohanga District Council be divided into six wards, these being:
 - Kāwhia/Tihiroa Ward** (2 councillors)
 - Kiokio/Korakonui Ward** (1 councillor)
 - Ōtorohanga Ward** (2 councillors)
 - Waipā Ward** (1 councillor)
 - Wharepuhunga Ward** (1 councillor)
 - One District-wide Māori Ward** (2 councillors) identified in Attachment 2
 - c) The Kāwhia and Ōtorohanga Community Boards be retained.

Explanation: Council believes that the Community Boards provide a valuable linkage between Council and the Ōtorohanga and Kāwhia communities

- d) The two subdivisions within the Kāwhia Community Board be retained. The names of the subdivisions and the number of members to be elected by the electors of each subdivision are;

Kāwhia (3 members)

Aotea (1 member)

- e) No subdivisions for electoral purposes are required within the Ōtorohanga Community
 f) Existing representation arrangements (4 community board members elected at large) be retained for the Ōtorohanga Community.

2. That Council invites public submissions on the above initial proposal in the period 24 August to 24 September 2021.
 3. That Council invites public submissions on the naming of the Ōtorohanga Maori Ward.

Background

Council is required to conduct a representation review as a result of its establishment of Māori wards for the 2022 and 2025 elections. Representation review considerations include the number of councillors to be elected; the basis of election for councillors and, if this includes wards, the boundaries and names of these wards. Reviews also include whether there are to be community boards and if so, arrangements for these boards. Representation arrangements must provide fair and effective representation for individuals and communities as determined by the Local Government Commission.

Council's current arrangements as confirmed at the last review in 2018 are the Mayor elected at large and councillors elected via five wards.

Also confirmed were two Community Boards with Ōtorohanga Community Board having 4 members elected at large and Kāwhia Community Board which is split between 2 subdivisions with the Aotea subdivision containing 1 member and the Kāwhia subdivision containing 3 members.

WARD	NO. OF MEMBERS	Community Board	Members
Kāwhia/ Tihiroa	2	Kāwhia	4
Kiokio/ Korakonui	1	Ōtorohanga	4
Ōtorohanga	2		
Waipā	1		
Wharepuhunga	1		
Total	7		

In relation to electoral system, on 26 June 2018 Council resolved to retain the First Past the Post (FPP) system for the 2022 and 2025 triennial elections. There is a legal requirement for this to be publically advertised which Council met by advertising in the Waitomo News on Tuesday 15 September 2020.

The Local Government Commission has issued guidelines for local authorities undertaking representation reviews. These guidelines have been used in the preparation of the initial proposal and will continue to be used as a guiding document over the course of the representation review. The guidelines are available online: <http://www.lgc.govt.nz/assets/Uploads/Representation-Review-Guidelines-2021.pdf>

A Workshop to consider options and aspects of representation for Ōtorohanga District was held on 1 June 2021 with Council's Electoral Officer - Warwick Lampp of Electionz.com. Two further workshops of Council were held on 15 and 29 June 2021.

The April 2021 resolution of Council to establish Maori Wards impacted on our representation arrangements. The number of representatives is calculated using a formula based on the ratio between the Maori Electoral population and General Electoral population times the number of elected members. Currently Council has 7 elected members which would have resulted in 1 Maori Ward representative. This would have meant that we needed to reduce one of the current wards by 1 member.

Through the workshop discussion Council opted for 2 Maori representatives. The impact of this was to increase the number of members from 7 to 9.

Discussion

Part 1A of the LEA sets out the requirements for a representation review. Local authorities undertaking reviews are required to consider:

- whether members (other than the Mayor) are to be elected by electors of the district at large, by electors of two or more wards, or in some cases by a mix of electors of the district at large and by electors of wards;
- the proposed number of councillors to be elected in each category (as a whole/ward/mixture - if applicable);
- the proposed name and boundaries for each ward (if Council agrees to elect its members under the ward system);
- whether there should be communities and community boards, and if so, the nature of a community and structure of a community board;
- whether any community should be abolished or united with another community;
- whether the boundaries of a community should be altered;
- whether a community should be subdivided for electoral purposes;
- the number of members of a community board (including the number elected and appointed);
- whether members of a community board to be elected by electors of a community at large, or by electors of two or more subdivisions, or by electors of each ward (if a community comprises two or more wards);
- the name, boundaries and number of members of each subdivision of a community (if adopted).

In undertaking a representation review, the following key principles must be considered:

- communities of interest
- effective representation
- fair representation (referred to as the +/- 10% rule)

The Local Government Commission guidelines on undertaking a representation arrangements review contain the following information:

Communities of interest

- not defined in legislation and may mean different things to different people
- essential part of review process
- one definition describes it as a three-dimensional concept
 - perceptual – a sense of belonging to a clearly defined area or locality
 - functional – the ability to meet with reasonable economy the community's requirements for comprehensive physical and human services
 - political – the ability of the elected body to represent the interests and reconcile the conflicts of all its members
- sense of community identity and belonging can be influenced by geographic features such as distinctive physical and topographical features
- community of interest can be identified by access to goods and services needed every day
- rohe or takiwa of local iwi and hapū may also be factors
- dependence on shared facilities (schools, recreational, retail, cultural) must be able to be defined as a single geographical area i.e. a physical boundary must be able to be defined

Effective representation

- once communities of interest have been defined by geographical boundaries, need to consider how these communities will be most effectively represented
- does each community of interest require separate representation?
- can communities of interest be grouped together to achieve effective representation?
- is effective representation best achieved by an at large system, a ward system or a mixed system?
- if at large - how many members would provide effective representation for the district as a whole?
- if wards - how many members for each ward would provide effective representation?
- should there be communities and community boards?
- ward and community board boundaries to coincide with mesh block boundaries

Fair representation

Population equity (plus/minus 10% of average representation) – applies to wards and subdivisions of community boards.

The process to follow when undertaking a representation arrangements review is:

- a. identify the district's communities of interest;
- b. determine the effectiveness of members by looking at the overall number of members, whether they represent the district 'at large' or from wards or by a mixture, in order that members are effective (are able to listen to and represent constituents effectively);
- c. investigate whether there should be community boards, and if so, the number, boundaries, number of members, whether they be subdivided, etc.
- d. determine that members fairly represent their constituents by ensuring the average population ratio is no more than a +/- 10% variance, unless there are good reasons to depart from this requirement.

Community Boards

In undertaking a review of community boards the Council is required to consider:

- whether there should be communities and community boards; and
- if it resolves there should, the nature of any community and the structure of any community board.

Currently there are two community boards in the Ōtorohanga District – the Kāwhia Community Board and the Ōtorohanga Community Board. Community boards are established under the Local Government Act 2002 to represent and act as an advocate for the interests of the communities in which they are established. They perform such functions and duties and exercise such powers as are delegated to them by the Council.

Membership of community boards is provided for through the LEA and can range between 4 and 12 members. Each board must include at least four elected members and may include appointed members. The number of appointed members must be less than half the total number of members.

In considering the rural nature of Ōtorohanga District, the urban areas of Ōtorohanga, Kāwhia and Aotea stand out as potentially meriting community boards. The table below therefore considers each of these areas against the relevant criteria of the LGA.

CRITERIA	ŌTOROHANGA	KĀWHIA	AOTEA
Will the proposal promote the good local government of the District and community concerned?	<p>Arguably yes. The ability of the Council to understand issues facing urban communities, and to provide appropriate services to them, has potential to be enhanced by a community board for Ōtorohanga.</p> <p>It is however also recognised that the existing (and proposed continuing) ward system ensures that the Ōtorohanga urban community has two Council representatives, and it might be suggested that this is sufficient for that community.</p>	<p>Yes. The ability of the Council to understand issues facing urban coastal communities, and to provide appropriate services to these communities, will be enhanced by the existence of community board representation.</p> <p>The existing (and proposed continuing) ward system could conceivably result in neither of the Councillors for the Kāwhia-Tihiroa Ward having strong affiliations to Kāwhia or Aotea, and in this circumstance a community board could partially address this representation gap.</p>	
Would the District and the Community have the resources necessary to enable them to carry out their respective responsibilities, duties and powers?	Yes.	The Kāwhia Community Board are very aware of the need to keep costs to a minimum, however in a community where an additional \$13,580 expenditure equates to a 1% rate increase the cost of the community board (\$68,360 local share) may be considered disproportionate.	No. Aotea is still a very small community. Based on Kāwhia's experience it is likely that the cost of a separate community board for Aotea would place too great a burden on Aotea ratepayers.

Would the community encompass an area that is appropriate for the efficient and effective exercise of its responsibilities, duties and powers?	Yes.	Yes, though perhaps marginal.	No, the community is too small, with too few issues to permit efficient exercise of its responsibilities and powers.
Would the district and community contain a sufficiently distinct community (or communities) of interest?	Yes, the urban area of Ōtorohanga is quite distinct from the surrounding rural areas.	Yes, although as noted above, that Kāwhia and Aotea are separate communities they have some commonalities.	
Would the district and community be able to meet the decision-making requirements of the Act?	Yes.	Yes, notwithstanding the resource issues referred to above.	No, resource constraints may inhibit the ability of the community to achieve the decision-making requirements of the LGA.

At the representation review conducted in 2006 the Kāwhia Community Board was extended to include the Aotea community. This option has benefits for both communities. The enhanced representation of Aotea promotes good local government, and the costs of the KCB is shared amongst a wider population.

The officially estimated usually resident population of Aotea and Kāwhia, as determined by Statistics New Zealand, is 60 and 410 respectively. Therefore, in order to obtain completely equal representation between Aotea and Kāwhia seven representatives would be required for Kāwhia for every one representative in Aotea. Even taking into account the +/- 10% variation allowed for by the Act, a ratio of 7 Kāwhia representatives for every one Aotea representative is necessary. Such a high level of representation for such small communities is not considered appropriate or efficient. Similarly, having elections at large – and therefore running the risk that there would be no Aotea representative – is unlikely to be acceptable to the Aotea community.

When the Kāwhia Community Board was extended to include Aotea after the 2006 representation review the number of elected members was increased by one to allow for the elected member representing the Aotea subdivision, resulting in 4 elected members for the Kāwhia subdivision and 1 for Aotea. It was considered at the 2012 Representation review this level of representation was too high for a community of only 400 people.

Subsequent consultation during the 2012 representation review resulted in the Kāwhia Community Board being reduced to 4 members, being 3 elected members for the Kāwhia subdivision and 1 for Aotea. It was believed that due to the small population this will give sufficient representation. This did not comply with the +/- 10% rule, but qualified for the one allowable exception as set out below.

The LEA provides that if a territorial authority considers that effective representation of an island or isolated community requires representation that does not comply with the +/- 10% rule then it may distribute representation accordingly. This provision has not been widely used; however, in the case of the Aotea Community it is possible to make a case that the physical separation of Aotea from Kāwhia justifies a departure. In addition it is noted that:

- The use of a percentage variance rule for a low population community may not be entirely appropriate (e.g. each Kāwhia representative will represent only 77 more people than the Aotea representative, which is hardly material);
- The estimated usually resident population (in both Aotea and Kāwhia) does not reflect the number of ratepayers in each community.

For the above reasons it is considered that the two subdivisions, based on the existing Kāwhia and Aotea communities are appropriate.

Initial Proposal

The total population of the district is 10,690 (estimated resident population as at 30 June 2020) compared to 10,104 as at 30 June 2017.

Ōtorohanga is the principal administrative and main trading centre, with approximately 30% of the District population residing in the town. There are a number of smaller settlements located throughout the District, the largest of which is the popular beach settlement of Kāwhia.

At workshops held on 1 and 29 June 2021, Council considered representation arrangements in light of updated figures once the district's Māori Electoral Population had been taken into account. Based on the current ward boundaries, updated figures incorporating the latest population estimates (as at 30 June 2020) are as follows:

Ward	General Electoral Population (at 30 June 2020)	Elected Members	Population per councillor	% deviation from average population per councillor
Kāwhia/Tihiroa	2,590	2	1,295	6.50
Waipā	1,150	1	1,150	-5.43
Kiokio/Korakonui	1,330	1	1,330	9.38
Ōtorohanga	2,270	2	1,135	-6.66
Wharepuhunga	1,170	1	1,170	-3.78
Total General	8,510	7	1,216	
Māori Ward	2,180	2	1,090	
District Total	10,690	9		

Via the workshops, Council indicated its support for continuation of the current ward boundaries in the initial proposal.

Kāwhia/Tihiroa Ward (2 councillors)

Waipā Ward (1 councillor)

Kiokio/Korakonui Ward (1 councillor)

Ōtorohanga Ward (2 councillors)

Wharepuhunga Ward (1 councillor)

Māori Ward (2 councillors)

Community Boards

Ōtorohanga Community Board (4 members)

Kāwhia Community Board

Kāwhia Subdivision (3 members)

Aotea Subdivision (1 Member)

Total Kāwhia Community Board (4 members)

Current Situation

Council currently has five wards with seven councillors and a Mayor elected at large. We also have two Community Boards with Ōtorohanga Community Board having 4 members elected at large and Kāwhia Community Board which is split between 2 subdivisions with the Aotea subdivision containing 1 member and the Kāwhia subdivision containing 3 members.

Options

As explained above, Council must undertake a representation review in time for the 2022 triennial elections. Options before Council at this meeting are to either adopt the initial proposal as detailed in this report; or instruct staff to undertake more work on the initial proposal and bring an updated report to a future meeting. If the latter option is selected, the timeframes would be tight as the initial proposal needs to be publically advertised by 31st August which would call for a special Council meeting to adopt the initial proposal and the risk of not completing the review in time would increase.

Option 1: adopt the initial proposal for public consultation as detailed in this report

Advantages	Disadvantages
<ul style="list-style-type: none">• The ward boundaries are well known and understood• Communities of interest are well represented within the existing wards• Complies with the +/-10% rule for fair representation• Iwi across the district have been consulted and are supportive of this option	<ul style="list-style-type: none">• A ward based system will potentially only allow for one/two candidates per ward as opposed to at large system

Option 2: do not adopt the initial proposal as detailed, but instead instruct staff to undertake more work on the initial proposal and bring an updated report

Advantages	Disadvantages
<ul style="list-style-type: none">• More time to consider options	<ul style="list-style-type: none">• Less time to complete the review in accordance with the LEA timeframes• Staff have identified little scope for alternative options having discounted:<ul style="list-style-type: none">○ An 'at large' approach instead of wards○ Boundary changes

Considerations

1. Significance and Engagement

Council's Significance and Engagement policy identifies the following matters that are to be taken into account when assessing the degree of significance of proposals and decisions:

- There is a legal requirement to engage with the community
- The level of financial consequences of the proposal or decision
- Whether the proposal or decision will affect a large portion of the community
- The likely impact on present and future interests of the community, recognizing Māori culture values and their relationship to land and water
- Whether the proposal affects the level of service of a significant activity
- Whether the level of community interest is high

- Whether the likely consequences are controversial
- Whether community views are already known, including the community’s preference about the form of engagement
- The form of engagement used in the past for similar proposals and decisions
- How readily a potential decision would be reversible

Staff have assessed the level of the representation review as high due to the fact that the proposal affects a large portion of the community and is of high community interest.

The LEA sets out the process required, including a formal consultation process which involves the ability for the public to make submissions on the representation arrangements review. Any submissions received will need to be considered by Council before a final proposal is resolved.

The proposed timetable is as follows:

Action	Date
Council resolution on initial proposal	17 August
Public notice of initial proposal	24 August and 26 August (within 14 days of 17 August)
Public submission period	24 August to 24 September
Submissions heard	5 th October
Council resolution on final proposal	19 October 2021
Public notice of final proposal	Thursday 21 October
Public appeals/objection period	Close 30 th November
Forward material to LGC	As soon as practicable, but not later than 15 January 2022
Determination by LGC	Before 11 April 2022

Policy and Plans

There are no known policy implications other than the Significance and Engagement Policy.

2. Legal

Section 19 of the Local Electoral Act 2001 sets out the provisions for the Council’s representation review. In particular, sections 19T to 19V relate to the requirements around effective and fair representation when determining membership and basis of election. If any aspect of the proposal does not comply with the 10% rule, it must be referred to the Local Government Commission (LGC). Following adoption of Council’s final proposal, there is a one-month appeal period in which appeals and objections may be lodged. Any appeals or objections will also be referred to the LGC for consideration. The LGC will then consider Council resolutions, submissions, appeals and objections and make a final determination. The LGC’s final determination is subject to appeal to the High Court only on a point of law or via judicial review.

3. Financial

The financial impact of the proposal is estimated to be approximately \$10,000, which includes public notices, map design and specialist consultant advice (if required). This will be funded from the Democratic Process account and is unbudgeted expenditure.

4. Iwi

Staff had a number of discussions with our Iwi partners including Nehenehenui, Raukawa and Kāwhia meetings and discussed the various options available, in particular whether the 2 Maori representatives should be elected by ward or at large. If the representatives were elected by ward, then the ratio of persons per member in each ward is required to be within +/- 10% of the ratio of the district as a whole. To achieve this would have required splitting the District into an Eastern and Western ward, but would have required splitting the Ōtorohanga township to achieve equal representation. An at large system was deemed to be the most appropriate method of providing effective representation. With our discussions with Iwi, they were supportive of an at large system.

Assessment of Options

Option 1 is recommended – adopt the initial proposal for public consultation. The current representation complies with the LEA, is well understood and provide effective representation for the Ōtorohanga District including communities of interest. The Representation review was triggered by the introduction of Maori Wards. Option 1 allows Council to maintain its current Ward system with no change to boundaries and members. When the various options were considered it became apparent that maintaining the existing number of Councillors after the introduction of a Maori Ward would either require significant boundary changes or a move away from the traditional ward based system. Subsequently Council opted for 2 Maori Ward councillors elected at large increasing the number of Councillors from 7 to 9. While this resulted in a large Council it was still considered the best option available.

Preferred Option and Reasons

It is recommended that Council adopts option 1, in accordance with the Local Electoral Act 2001, the initial proposal on representation for the Ōtorohanga District Council for consultation and invites the public to make submissions. Option 1 complies with the LEA and provides for effective representation for all communities.

Graham Bunn

GROUP MANAGER CORPORATE

Attachments

1. Ōtorohanga District Ward Boundaries
2. District Wide Māori Ward