

Memo

To: Local Government Commission

From: Michael Coles, Advisor

Date: 26 September 2006

Subject: Hearing of objections against the final representation proposal of the Palmerston North City Council

Hearing

1. The Palmerston North City Council agreed on its final representation proposal on 24 May 2006. This changed the Council's initial proposal.
2. A total of 30 appeals and objections have been received against the final proposal.
3. People or groups who made oral submissions in support of the Council's proposal have also been invited to speak at the hearing.
4. The hearing is to be held on Thursday, 28 September at Te Manawa, 396 Main Street, Palmerston North, commencing at 10 am.
5. All written submissions, appeals, and objections, and all Council papers relating to its representation review have been circulated separately.

Summary

6. The dominant questions arising from the Council's representation review process are whether there should be:
 - wards or an at-large system for electing councillors;
 - a reduction in the number of councillors; and
 - a community board for the Ashhurst area.
7. However, a range of views have been presented throughout the Council's process. Some submitters broadly addressed the City's governance arrangements as a whole, recognising that all parts of the Council's proposed arrangements affect each other. Others have indicated a preference for one of the options provided by the Council as part of its consultation.
8. Ultimately the Commission's role is to determine a governance structure that ensures fair and effective representation for the electors and communities of Palmerston North City. This task may be usefully structured into 3 broad questions.
 - (a) How should communities of interest in the city be identified for the purposes of local electoral boundaries? What are the commonalities and dissimilarities between the various communities of interest?
 - (b) What is the best means to ensure that all communities are effectively represented?
 - (c) What is the best means to balance the fundamental electoral principles of effective representation for communities of interest and fair representation (or equal right to representation) for electors?

9. Clearly, if the Commission decides that wards are necessary to ensure effective representation for communities of interest in Palmerston North City, it must then decide the number of wards, and their boundaries.
10. A number of submitters addressed governance issues relating to the formal structures whereby residents are able to have their views heard at Council level. The Council currently supports ward committees. The future of ward committees is not a matter for the Commission to determine. However, in light of these submissions, the Commission may wish to broadly examine the role of community boards in the context of the City's governance arrangements.
11. Submissions and appeals indicate a general acceptance that no communities of interest in Palmerston North City are isolated to the extent that their effective representation requires exemption from the requirements for elected member to population equality under section 19V(2).

Background

12. This review is the first undertaken by the Council under the Local Electoral Act 2001 (the Act).
13. The Council's existing arrangements provide for 15 councillors (plus the mayor) elected by wards as follows:

<i>Wards</i>	<i>Population*</i>	<i>No. of Councillors per ward</i>	<i>Population per Councillor</i>	<i>Deviation from city average population per Councillor</i>	<i>% deviation from city average population per Councillor</i>
<i>Papaioea</i>	<i>20990</i>	<i>4</i>	<i>5248</i>	<i>41</i>	<i>0.8%</i>
<i>Takaro</i>	<i>16810</i>	<i>3</i>	<i>5603</i>	<i>396</i>	<i>7.6%</i>
<i>Awapuni</i>	<i>13500</i>	<i>3</i>	<i>4500</i>	<i>-707</i>	<i>-13.4%</i>
<i>Hokowhitu</i>	<i>16180</i>	<i>3</i>	<i>5393</i>	<i>186</i>	<i>3.6%</i>
<i>Fitzherbert</i>	<i>6930</i>	<i>1</i>	<i>6930</i>	<i>1723</i>	<i>33.1%</i>
<i>Ashhurst</i>	<i>3640</i>	<i>1</i>	<i>3640</i>	<i>-1567</i>	<i>-30.1%</i>
TOTALS	72036	15	5207		

*these figures are population estimates provided by the Government Statistician at 30 June 2004.

14. There are no community boards in Palmerston North City.

The Council's initial proposal

15. Prior to the resolution of its initial proposal, the Council undertook an informal public feedback/information process. It issued a public discussion document (attached) outlining a number of practical options in respect to the City's governance structure. In particular, the discussion document outlined a variety of possible ward arrangements, including mixed ward/at-large models, and at-large representation. The discussion document also set out some considerations in respect to:
 - The number of councillors;
 - community boards; and
 - Maori Wards.

16. The discussion document included a submission form providing for a yes/no response to the broader questions at stake as well as the opportunity to offer a wider range of comments. Submitters were invited to speak to their submission at a Council hearing.
17. The City's representation arrangements were also discussed at a series of ward committee meetings.
18. The Council also contracted the National Research Bureau to undertake a random survey of electors.
19. The Council subsequently agreed on an initial proposal on 6 March 2006, as follows:
 - (a) the Council to comprise 12 Councillors and the Mayor, elected by the electors of the city as a whole; and
 - (b) no community boards should be established in the city.
20. The Council received 79 written submissions on its initial proposal. It held a hearing of submitters, at which 15 submitters made oral presentations to the Council. The written submissions, and a summary of points made at the Council's hearing, have been circulated separately.

The Council's final proposal

21. Following its consideration of submissions, the Council proposed to alter its initial proposal. Its final proposal was publicly notified on 7 June 2006, as follows:
 - (a) the Council to comprise 15 Councillors and the Mayor, elected by the electors of the city as a whole; and
 - (b) a community board for the Ashhurst area should be constituted
22. The reasons for the Council's decisions are outlined in the attached public notice of its decisions.

Matters relating to the Commission's consideration of the representation arrangements that will apply in Palmerston North City for the 2007 local elections

Matters relating to the Council's process

23. A small number of appellants cite aspects of the Council's representation review process that they consider unfair. These relate to the requirement, under Part 1A of the Act, to notify and seek public views on both an initial proposal and final proposal. They also relate to the Council's procedures for voting on its final proposal. Ultimately these procedural matters do not affect the Commission's role, which is solely to determine the representation arrangements to apply in Palmerston North City for the 2007 local elections.
24. The quantity of submissions and appeals in favour of, or in opposition to, some part of the Council's proposals cannot be an overriding factor in the Commission's considerations.

Should Councillors be elected at-large, by wards, or a mix of wards and at-large?

25. The Commission's first task is to determine whether Councillors should be elected at-large, by wards, or a mix of at-large and wards. The criteria for determining this matter are set out in sections 19T and 19U of the Act¹. Principally, the Commission must ensure that the electoral structure provides effective representation for communities of interest in Palmerston North City.
26. Submissions and appeals suggest a range of interpretations of this electoral principle. 'Community of interest' is not defined in the Act or Local Government Act 2002 (the LGA). The Commission's 2005 *Guidelines* include the following guidance for considering communities of interest:

"In a general sense, the Commission is of the view that a community of interest is the area to which one feels a sense of belonging and to which one looks for social, service and economic support. Geographic features and the roading network can affect the sense of belonging to an area. The community of interest can often be identified by access to the goods and services needed for ordinary everyday existence. Another community of interest factor could be the rohe or takiwā area of tangata whenua.

A community of interest usually has a number of defining characteristics, which may include:

- a sense of community identity and belonging;
- similarities in the demographic, socio-economic and/or ethnic characteristics of the residents of a community;
- similarities in economic activities;
- dependence on shared facilities in an area, including schools, recreational and cultural facilities, and retail outlets;
- physical and topographic features;
- the history of the area; and
- transport and communication links."

27. The Commission's 2005 *Guidelines* provide several principles that can be applied to the consideration of 'effective representation', as follows:

- A recognised community of interest should not be split between electoral subdivisions.
- Grouping together two or more communities of interest that share few commonalities of interest should be avoided where possible.
- Accessibility, size and configuration of an area should be considered:
 - Would the population have reasonable access to its elected members and vice versa?

¹ Section 19T of the Act requires the Commission to ensure:

- the election of members of the council will provide effective representation of communities of interest within the district;
- ward boundaries coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes; and
- so far as is practicable, ward boundaries coincide with community boundaries.

- Would elected members be able to effectively represent the views of their electoral subdivision?
 - Would elected members be able to attend public meetings throughout their area, and provide reasonable opportunities for their constituents to have face-to-face meetings?
28. The Commission may also have regard to the role of local authorities provided under section 11 of the LGA, and the principles relating to local authorities, as set out in section 14 of the LGA. Under section 11, a council's role is to:
- (a) give effect to the following purpose of local government stated in section 10;
 - (i) to enable democratic local decision-making and action by, and on behalf of, communities; and
 - (ii) to promote the social, economic, environmental, and cultural well-being of communities, in the present and for the future; and
 - (b) perform the duties, and exercise the rights, conferred on it by or under this Act and any other enactment.
29. The Council's review process highlights the fact that divergent and overlapping communities of interest may exist within districts, including social, cultural, and business communities of interest that may transcend defined locations but provide for a collection of shared city-wide interests. Consideration of these communities must be balanced with the interests of residents of distinct localities. The Commission must consider communities of interest on a case-by-case basis, and from the evidence and submissions presented to it. The hearing of appeals provides an opportunity to explore further the factors that make each community of interest distinct, and the linkages between the various communities of interest.
30. It is noted that wards were introduced in Palmerston North City following the 1989 inclusion of parts of the Manawatu District into the City. Prior to this, Palmerston North City comprised the central urban area of the City only.
31. It is noted that turnout at the 2004 elections for Palmerston North City was 50%. Participation by wards, and the existing campaign expense limits applying to each ward are illustrated in the following table:

<i>Ward</i>	<i>Total turnout</i>	<i>Election expenditure limits</i>
<i>Papaioea</i>	<i>49.40%</i>	<i>\$20,000</i>
<i>Takaro</i>	<i>46.24%</i>	<i>\$14,000</i>
<i>Awapuni</i>	<i>50.55%</i>	<i>\$14,000</i>
<i>Hokowhitu</i>	<i>54.41%</i>	<i>\$14,000</i>
<i>Fitzherbert</i>	<i>45.24%</i>	<i>\$7,000</i>
<i>Ashhurst</i>	<i>51.77%</i>	<i>\$3,500</i>

32. It is noted that all members elected under a ward system take an oath on taking up office to act in the best interests of the whole district. In other words, even where the use of a ward system will achieve more effective representation of communities, the members under that system have the same obligation to the district as the members elected at large. Therefore, in terms of the duties of elected members there is no functional difference in the decision-making role of members elected at large and members elected from wards.

33. The main arguments presented in support of an at-large system are:

- the district comprises a relatively compact geographic area;
- it is difficult to distinguish communities based on the City's physical or topographic features;
- there are strong commonalities of interest among identified communities of interest within the City;
- the City comprises secondary or parallel communities of interest that cover the City as a whole (for example, students, low income, ethnic, and youth)
- an at-large system would provide greater scope for electors to choose candidates better able to represent the interests they consider important (some submitters and appellants suggest that wards restrict elector choice);
- the existing ward system has encouraged 'cliques' to develop among candidates within the ward system;
- at-large representation would encourage councillors to be accountable to the whole city, rather than to the electors of their ward only;
- an at-large system would revive interest in the Council, and encourage voter turnout; and
- wards are unfair in that residents of some wards are only able to vote for 1 Councillor, whereas residents of other wards are able to vote for 4 Councillors.

34. The main arguments presented in support of some form of ward boundaries are:

- some competent candidates will find the financial cost of campaigning over the whole city prohibitive;
- candidates who are able to dedicate more time to campaigning will be advantaged by city-wide elections;
- while there are strong social, cultural and business interests that transcend defined locational communities in the city, the financial and time requirements for campaigning over the whole city will advantage candidates whose views tend to represent some business, cultural, or social interests (ie business interests, self-employed people) and disadvantage candidates whose views tend to represent other business, cultural, or social interests.
- wards result in Council membership that is more representative of the diversity of communities in Palmerston North City;
- there are socio-economic differences between community areas in Palmerston North, which should be reflected in electoral boundaries (i.e. the concerns and issues facing many residents of Highbury in the Takaro Ward are distinct from the issues facing many Hokowhitu residents);
- wards ensure that people from different parts of the city are elected.
- ward-elected councillors ensure a better link between the Council and residents of particular parts of the City, which contributes to the effective delivery of local services and facilities (examples Papaioea recreational facilities, Takaro community facilities, Milverton Park facilities);
- wards allow local issues to be debated with ward councillors in a local context;

- councillors elected from wards are likely to be more familiar with the experiences of, and issues facing, residents in their ward by virtue of sharing the same physical space;
- residents would have better opportunities to meet, and share views with, councillors who live nearby;
- in casting their vote, most electors are only able to meaningfully differentiate between a small number of candidates;
- wards enable a more detailed degree of accountability between elected members and electors;
- the historical record prior to the introduction to a ward system in 1989 suggests that at-large representation would result in a disproportionately high number of members who reside in Hokowhitu;
- the Ashhurst, Linton, and Aokautere areas contain sufficiently distinct communities of interest (in particular, their distance from the urban centre of the City) to warrant specific councillor representation;
- a ward system would enable more effective management of community-council consultation processes;
- a ward system is a useful basis for ward committees, which contribute to community involvement in council decision-making;
- a ward structure would encourage community cohesion and development;
- wards result in residents having identifiable people to contact regarding local issues; and
- wards ensure that any issues facing the residents of one ward are brought to the attention of the whole Council.

Fair representation

35. If the Commission decides that wards should be included in the City's representation arrangements, it must then determine how many, and their boundaries. It must also ensure that ward arrangements comply with the requirements for fair representation under section 19V(2) of the Act.
36. Section 19V(2) requires the Commission to ensure that the population of each ward, divided by the number of members to be elected by that ward, produces a figure no more than 10% greater or smaller than the population of the divided by the total number of elected members (other than members elected by the electors of a territorial authority as a whole).
37. In respect of territorial authorities and communities, section 19V(3)(a) provides the only grounds for not complying with the provisions of section 19V(2). These grounds are to provide for effective representation of communities of interest within isolated communities.
38. The issues to be considered here include:
 - whether communities of interest are isolated;
 - whether that isolation is sufficient to require representation that does not comply with the 10% rule; and
 - what proportion of the population and area is isolated within any ward.
39. It would seem difficult to argue that any communities in Palmerston North City are isolated to the extent that their effective representation requires exemption

from the requirements for elected member to population equality under section 19V(2).

40. Much of the debate arising from the Council's review focuses on the question of whether an at-large system would ensure effective representation for communities of interest in Palmerston North. Submitters in favour of wards have not necessarily suggested specific ward arrangements, but nevertheless consider that some form of ward structure remains necessary to ensuring effective representation for communities of interest in Palmerston North City. Some submitters recognise that the boundaries of the City's urban wards are somewhat arbitrary.
41. The Council's existing arrangements do not provide fair representation. A particular difficulty here is that the population of the Ashhurst area is insufficient to justify specific representation on Council, without either dramatically increasing the total number of Councillors, or creating a larger ward that combines the Ashhurst area with other communities of interest in the City.
42. Some submitters express support for option A contained in the Council's initial discussion document. This option is for 5 wards and 15 Councillors. It combines the existing Ashhurst and Fitzherbert Wards, leaving the remaining central urban area of the city to be divided into 4 wards based on the existing Papaioea, Takaro, Awapuni, and Hokowhitu Wards. The model provided in the Council's discussion document would not meet the requirements of section 19V(2). However, this could be remedied by increasing the size and population of the Awapuni Ward. Some submitters argue that a 5 ward model would provide for projected population growth in the City without the need to re-draw boundaries in the immediate future so as to ensure compliance with the requirements of population equality under section 19V(2). This issue could be explored further.
43. The Council's discussion document also provides a model based on 3 wards and 10 councillors. It combines the existing Papaioea/Ashhurst Wards, Takaro/Awapuni Wards, and Hokowhitu/Fitzherbert Wards. Some submitters have argued that this model results in quite distinct communities being combined, particularly in the Ashhurst, Fitzherbert, and Papaioea areas.
44. Some submitters and appellants express support for a mix of wards and at-large representation. It is argued that a mixed system would provide effective representation for both geographically defined communities and the City's social or parallel communities that transcend defined locations. It is noted that the specific requirements for considering fair representation under section 19V(2) do not apply in respect to Councillors elected at large.

How many Councillors should there be?

45. Section 19A of the Act provides that a council shall consist of between 6 and 30 members including the Mayor. The Council's proposal conforms to this requirement.
46. The Council initially proposed to reduce its membership to 12 Councillors and the Mayor. It subsequently proposed to remain with 15 Councillors and the Mayor. The vast majority of submitters and appellants accept a range of

between 10 and 15 Councillors and the Mayor. Some submitters have suggested that the appropriate number of elected members would depend on whether an at-large or ward-based system were to apply in the City.

47. The key arguments presented in submissions and appeals in support of a reduction to Council membership are:
- The majority of submitters to the Council's initial proposal supported the then Council decision to reduce the number of members to 12;
 - A reduced Council would result in more consensus in decision-making, and a more disciplined, cohesive, and effective Council;
 - The cost of servicing 12 Councillors instead of 15 would result in administrative efficiencies; and
 - A smaller number of Councillors would enable the Council to operate in a similar way to a Board of Directors;
 - A smaller Council would generate greater interest in local government, and a higher turnout in elections.
48. The key arguments presented in submissions and appeals in support of retaining the existing number of Councillors are:
- It is necessary to enable the Council to meet its obligations under the LGA in an efficient and meaningful way;
 - A smaller Council would not result in economic efficiencies to the extent suggested by some submitters because the total remuneration pool is determined by the Remuneration Authority and would remain the same (though divided amongst fewer members);
 - A 15-member Council would result in a wider range of community views and interests being represented at Council level;
 - At least 15 Councillors will enables better opportunities for engagement between community members and the Council, which is fundamental to the role of local authorities under the LGA;
 - A 15-member Council would spread the workload sufficiently to enable Councillors to continue with other employment;
 - A smaller Council would result in less opportunities for non-incumbent councillors to be elected;
 - a smaller Council would result in less interest in local government, and lower turnout at elections.

Communities

49. The Council initially proposed not to constitute community boards in the City. However, submissions from residents of the Ashhurst community indicated strong support (including a petition signed by 159 Ashhurst residents) for the constitution of a community board for this area. The Council subsequently decided that an Ashhurst Community Board should be constituted.
50. The key arguments for constituting an Ashhurst Community Board include:
- The Ashhurst area comprises a community of interest that is distinct, in respect to its proximity, social and environmental outlook, from the remainder of the City;
 - The area warrants specific local government representation, which cannot be ensured under either an at-large system of Councillor representation, or

by wards given the requirements for population to member equality under section 19V(2); and

- A community board would provide more robust and democratically accountable representation than a ward committee.

51. Submissions from Harvey Jones, Tom Shannon, David Pinkney, and John Bent provide detailed commentary around the arguments for constituting an Ashhurst Community Board. These submitters will speak to the Commission at the hearing of appeals.
52. An Ashhurst Community Board was constituted in 1989 as part of the reorganisation of local government. Prior to 1990, the Ashhurst community was funded separately, and its budget was separate from the remainder of the Council budget. The Board was abolished in 1990 and the Ashhurst budget was absorbed into the overall Council budget. The abolition of the Board coincided with a reduction in rates required to be paid by Ashhurst residents.
53. Appeals and objections indicate a reasonable level of community support for the Council's proposed boundaries of an Ashhurst Community Board (as attached).
54. The Council proposes that the Ashhurst Community Board should comprise 5 members elected by the residents of the Ashhurst Community, and no appointed Councillors (as the Council has proposed that Councillors should be elected at large). It proposes that the Ashhurst Community should not be subdivided for electoral purposes. The vast majority of submitters and appellants who support the constitution of an Ashhurst Community Board do not disagree with these proposals.
55. Section 19J of the Act sets out the decisions that may need to be made in respect to the review of community boards. These matters are illustrated in the following table:

Section	Decision
19J(1)	Whether – <ul style="list-style-type: none"> • There should be communities and community boards; and • The nature of any community and the structure of any community board
19J(2)(a)	Whether 1 or more communities should be established
19J(2)(b)	Whether any community should be abolished or united with another community
19J(2)(c)	Whether the boundaries of a community should be altered
19J(2)(d)	Whether a community should be subdivided for electoral purposes
19J(2)(e)	Whether the boundaries of a subdivision should be altered
19J(2)(f)	The number of members of a community board
19J(2)(g)	The number of members of a community board who should be elected and appointed
19J(2)(h)	Whether the members to be elected should be elected – <ul style="list-style-type: none"> • From the community as a whole; or • From subdivisions; or • Where the community comprises two or more wards, from wards
19J(2)(i)	Where members are to be elected from subdivisions – <ul style="list-style-type: none"> • The name and boundaries of subdivisions; and • The number of members to be elected from each subdivision

56. Section 19T(c) provides that “so far as is practicable, ward boundaries should coincide with community boundaries.”
57. In undertaking the community board review, section 19W of the Act requires the Commission to have regard to the principles of fair and effective representation, and any of the criteria that apply to reorganisation proposals under clause 3 of Schedule 3 of the LGA that it considers appropriate. Applying those criteria for community board reviews means that the following matters should be considered in respect to each of the existing or proposed community boards:
- will the constitution or abolition of community boards promote good local government of the parent district and the community area concerned?
 - would the district and the community have the resources necessary to enable them 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 the community contain a sufficiently distinct community of interest or sufficiently distinct communities of interests?
 - 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?

58. Section 76 of the LGA sets out the principles and broad processes relating to the consultation, decision-making, and reporting framework provided in the LGA.
59. Section 52 of the LGA sets out the basic advocacy and reporting roles of community boards. However, section 52(f) enables a council to delegate a wider range of responsibilities under clause 32 of Schedule 7 of the LGA. The criteria for reviewing community boards includes matters such as a council's allocation of resources and funding, and delegation of statutory authority, to community boards. The Commission may wish to explore these matters with the Council.
60. Some submitters request that community boards be constituted for other areas of the City. Some submitters, while not specifically requesting community boards, question the impact of at-large Council representation on the Council's ability to engage with community members at a local level. Some submitters question the impact of at-large representation on the City's Ward Committees, which are supported by the Council. Some submitters question the effectiveness of, and mechanisms for election to, Ward Committees.
61. The primary distinctions between community boards and other forms of community-based governance structures (including the City's Ward Committees) are that:
 - (a) community boards have elected members;
 - (b) the role of the community boards is prescribed under section 52 of the LGA;
 - (c) community board members are paid by the Council (from a city-wide remuneration pool determined by the Remuneration Authority); and
 - (d) community boards receive administrative support from the Council.
62. The Commission is not able to determine the future of the City's Ward Committees. However, the issues raised in a number of submissions and appeals relate to:
 - the Council's ability to meet the decision-making requirements of section 76 of the LGA; and
 - the promotion of local government (with a view to the purposes and principles contained in sections 10 and 14 of the LGA) within the City
63. The Commission could explore the possibility of constituting community boards in other areas of the City.

Michael Coles
Advisor