

Memo

11 October 2018

To: Mayor Phil Goff and Councillors

From: Richard Northey, Chairperson, Joint Governance Working Party

Subject: **Review of representation arrangements – recommendations of the Joint Governance Working Party**

Overview

I want to express my thanks and gratitude to my fellow Working Party Members, Councillors Linda Cooper, Cathy Casey, Daniel Newman and Wayne Walker and local Board members Angela Dalton, Shane Henderson and Phelan Pirrie for the commitment, knowledge, collaboration and mutual respect they brought to this task. I have also deeply appreciated the time, wisdom and willingness to respond appropriately and efficiently to all requests, particularly from Warwick McNaughton, Brian Osborne, Marguerite Delbet and Phil Wilson.

The Working Party has chosen to adopt a conservative approach and to leave matters unchanged where there was both a strong case in terms of community of interest and also of conforming legal and equity requirements to do so. There was no significant negative public response to the great majority of the proposals endorsed by the Governing Body for public submissions.

The Case for Changing Isthmus Ward Boundaries

Together with the issue of the Manukau Ward, where the local population has made its views very clear, the most contentious issue facing the Working Party has been that of whether, and to what extent, the boundaries of the Isthmus Wards should be changed. The only area where there was an overwhelming negative public response to a proposed ward boundary change, that of Grey Lynn and Westmere, has been changed accordingly in our final recommendations.

The Working Party unanimously agree, as is reflected in resolution (d), that the boundaries of the Waitemata and Gulf Ward and consequently of governing body wards in the Auckland Isthmus needed to be changed in order to meet the Council's obligations in terms of both the law and of equity.

Our view of the law is that exceptions to the fair and equal representation requirement, as expressed in the plus or minus 10% requirement, should be to the minimum extent practicable to be consistent with the communities of interest requirement. What the Working Party recommends does adequately achieve consistency with communities of interest. The Local Government Commission has never agreed to any departure from the fair representation requirement of greater than 20% within a continuously urban area, and they are most unlikely to make an exception within an entirely urbanised area of Auckland.

The fair representation requirement is based on the latest Department of Statistics estimates of usually resident population. These numbers do not include visitors or short-term residents. Even if students whose parents live out of Auckland were not to be included the Ward would still exceed the average population size by over 35% and would still not meet the fair representation requirement by a very wide margin.

Since the 1887 Representation Act the basis of representation at all levels has been total population. Premier Robert Stout stated in Parliament: "the principle is simply this: that this body is supposed to represent the people". Whether representation should be based on total population or on voter numbers was a specific term of reference of the 1986 Royal Commission on the Electoral System which confirmed this principle. In section 5.24 it concluded: "The general argument...is that everyone is affected by the decisions of government and therefore everyone should be equally represented in the body that makes those decisions....incapacity to vote does not imply that the individuals concerned should be ignored."

The relatively low voter turnout in the Waitemata and Gulf Ward appears principally to reflect the high proportion of young people, recent permanent migrants and of poor and alienated people living in the central city in particular. The Working Party believes that, following the principle in the paragraph above, these disadvantaged people equally need advocacy and representation from their ward councillor and the fair representation in relation to total population criterion should continue to apply. Were we to apply a radically new criterion that only those who vote should be counted in terms of determining representation and boundaries then the Southern Initiative Area of Manukau and Manurewa- Papakura should have its number of Councillors reduced from four to three. This outcome would be seen as clearly discriminatory.

It would be unfair to the representation of Waitemata and Gulf people if changes were postponed. The trends of massive central city and inner suburbs apartment building will continue and lead to even more under-representation which cannot be addressed for at least three years but, in light of the disruption it would cause, is more likely to be delayed for the permitted six years. New Zealand First appears to be irrevocably opposed to allowing an increase in the number of Auckland Councillors and they will probably be part of any government formed in that period. Population estimates indicate that by six years from now Waitemata and Gulf residents would have only about half the voting power of the average of those in the rest of the Council area. The Ward would still have adequate representation in terms of local board members but they would be very under-represented in terms of the types of strategic decisions made by the Governing Body, a high proportion of which are about central city issues.

One criterion which needs to be taken into consideration is existing ward and local board boundaries. This is important, but legally and ethically it cannot override all other considerations, particularly of fair and equal representation. In the late 19th and early 20th century parliamentary electorate boundaries had to comply with Local Council boundaries, and the then representation body simply decided how many MPs should be elected from each metropolitan council area and which Boroughs and Counties should be combined for representation in the provinces. This perpetuated unequal representation in proportion to population and the requirement to take some account of Council boundaries was retained as just one of the community of interest criteria. Now Auckland has changed from largely advisory Community Boards with boundaries changing to reflect their Council Ward changes instead to Local Boards covering continuing communities of interest with substantial governance powers and with teams of staff delivering to defined areas and facilities. It is almost inevitable and actually desirable in some cases that fair and appropriate Governing Body Ward boundaries will steadily change and move away from the largely unchanging Local Board boundaries. Local Board boundaries should not be subservient to Governing Body Ward boundaries any more than Council and Parliamentary Electorate Boundaries should be changed to conform to each other.

The boundary setting criteria of taking account of existing boundaries and of community of interest cannot be allowed always to trump the criterion of equal voting rights. In Britain in the early 19th Century MPs used their then power to define electoral boundaries to keep the electorates unchanged in spite of the vast population changes wrought by the industrial revolution. As a result the town of Old Salem near Salisbury with seven people retained a "rotten borough" seat while Manchester with a quarter of a million people and being the new basis of the nation's wealth still only had one seat. The Reform Act of 1832 brought an end to this gerrymandering and enshrined the principles not only that all (except women) had the right to vote regardless of wealth but also that the votes of all were of equal value.

The Local Government Commission will ultimately decide the boundaries in those cases where our proposals breach the plus or minus 10% rule. They have not made any decisions that allow boundaries within continuous urban areas to depart very far from this criterion. If we propose to perpetuate the existing governing body ward boundaries which, in the Waitemata and Gulf Ward, are grossly out of line with this principle then the Local Government Commission would likely feel obliged to invent and proclaim its own boundary lines. These could well be much more radical, disruptive and with less awareness of local connections than those the Working Party proposes. Councillors would be fully entitled to disassociate themselves from such imposed boundaries but it would be more responsible and courageous to propose boundaries that could actually be upheld.

Richard Northey

Chairperson, Joint Governance Working Party