

Marlborough District Council

*Notice of the Council Meeting
to be held in the Council Chambers,
Seymour Street, Blenheim on
Thursday, 29 October 2009
to commence at 3.00 pm*

BUSINESS

As per the Order Paper attached.

**ANDREW BESLEY
CHIEF EXECUTIVE**

Marlborough District Council

**Order Paper for the COUNCIL MEETING to be held in the
Council Chambers, Administration Building, Seymour Street, Blenheim
on THURSDAY, 29 OCTOBER 2009 commencing at 3.00 pm**

Open Meeting

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Marlborough District Council

**Order Paper for the COUNCIL MEETING to be held in the
Council Chambers, Administration Building, Seymour Street, Blenheim
on THURSDAY, 29 OCTOBER 2009 commencing at 3.00 pm**

1. Prayer

Almighty God,
Give your blessing to this District Council
And grant us such a measure of your wisdom
That we may have a right judgement in all things
And may worthily manage the affairs of this District.

Amen

2. Apologies

3. Acknowledgement of 150th Anniversary of Marlborough as a Separate Province

The Mayor will acknowledge all invited guests and receive delegations.

4. Minutes

- 4.1. Confirmation of the Minutes of the Council Meeting held on 17 September 2009
(Minute Nos. C.09/10.128 to C.09/10.135)

5. Committee Reports

5.1 Resource Hearings Committee (refer to separate attachment)

Resource Hearings Committee Meetings held on 11/12/13, 19, 20 & 26 August, and 1, 2 (2), 9 & 10 September 2009

(Minute Nos. H.09/10.109 to H.09/10.111, H.09/10.112 to H.09/10.113, H.09/10.114 to H.09/10.115, H.09/10.116 to H.09/10.117, H.09/10.118 to H.09/10.119, H.09/10.120 to H.09/10.121, H.09/10.122 to H.09/10.123, H.09/10.124 to H.09/10.125 and H.09/10.126 to H.09/10.127)

5. Committee Reports

5.2 Commissioner Hearing Decision (refer to separate attachment)

Commissioner Hearing held on 22 September 2009 (U090187)

5. Committee Reports

5.3 Assets & Services Committee

Assets & Services Committee Meeting held on 8 October 2009
(Minute Nos. P.09/10.136 to P.09/10.147)

5. Committee Reports

5.4 Community & Financial Planning Committee

Community & Financial Planning Committee Meeting held on 12 October 2009
(Minute Nos. A.09/10.148 to A.09/10.167)

5. Committee Reports

5.5 Environment Committee

Environment Committee Meeting held on 15 October 2009
(Minute Nos. R.09/10.170 to R.09/10.188)

5. Committee Reports

5.6 Grants Sub-Committee

Grants Sub-Committee Meeting held on 13 October 2009
(Minute Nos. X.09/10.168 to X.09/10.169)

6. Annual Report 2008/09 (S360-05)

(Clr Hope) (Report prepared by M Fletcher)

1. Council considered the interim financial results for the year ended 30 June 2009 at the Community and Financial Planning Committee of 31 August 2008. Subsequent to this meeting the Annual Report has been finalised incorporating the subsidiary results and non financial information.
2. The Annual Report reports the performance of Council against non financial performance targets and financial forecasts.
3. Audit New Zealand are still finalising the audit of the Annual Report but it is anticipated that Council will be issued with an unqualified audit opinion for the year ended 30 June 2009. An unqualified audit opinion is a significant achievement for Council and is the result of many months of effort from staff. The opinion from Audit New Zealand forms part of the Annual Report and provides an assurance in regard to the financial position of Council.
4. Audit New Zealand has also advised that the Annual Reports of all subsidiaries have also achieved unqualified audit opinions and their results have been consolidated into the “final” Annual Report for the year ended 30 June 2009.
5. A copy of the Annual Report will be **circulated separately**.

RECOMMENDED

That the opinion of Audit New Zealand be received and the Final Annual Report for the Marlborough District Council for the financial year ended 30 June 2009 be adopted.

7. Plan Changes 16 and 53 (Aquaculture Management) – Sub-Committee to Hear Submissions and Make Decisions (M135-15-16, W045-15-53)

(Clr Bunting) (Report prepared by T Bray)

Purpose

1. The purpose of this item is to seek approval from Council to form a sub-committee to hear the submissions and further submissions and make decisions on submissions to Plan Changes 16 and 53 (Aquaculture Management).

Background

2. On 12 March 2009 Council publicly notified Plan Change 16 (Marlborough Sounds Resource Management Plan) and Plan Change 53 (Wairau/Awatere Resource Management Plan).
3. Submissions closed on 15 April 2009 and 36 submissions were received for Plan Change 16 and 25 submissions were received for Plan Change 53 from a range of submitters. Further submissions were called for on 15 July 2009 and following the closing of submissions on 21 August 2009 Council received two further submissions. These submissions have now been summarised and a Hearing of the submissions and further submissions has been set down for the week commencing 3 November 2009.

Hearings Panel

4. Clrs Bowers (chair), Jerram and Davidson have agreed to sit on the hearings panel and it is recommended that Council form a Hearings Sub-Committee consisting of these members.
5. It is suggested that the Sub-Committee be delegated the power to hear the evidence and make decisions on the submissions to Plan Changes 16 and 53.

RECOMMENDED

That a Sub-Committee be formed consisting of Clrs Bowers, Jerram & Davidson and delegated the power to hear and make decisions on Plan Changes 16 and 53.

8. Method of Election and Review of Representation (E090-2010-11)

(Mayor) (Report prepared by M Porter)

Purpose

1. The purpose of this report is to assist Council in making its final determination, following consideration of submissions received, on its 'Method of Election and Review of Representation' proposal.

Background

2. Members will be aware that a report detailing scenarios was presented to the Community and Financial Planning Committee on 20 July 2009 (copy **attached**).
3. Members will also be aware that following the decision made at that meeting (under Minute No. A.09/10.18), Council advertised its decision and invited submissions on the proposal.

Submissions

4. Two submissions were received by the deadline, one from Mr David Dew and the other from Mr Cliff Smith (copies **attached**).
5. The opportunity to speak to their submissions was extended to both submitters with Mr Dew addressing the Community and Financial Planning Committee on 12 October 2009. Mr Smith was in attendance at the meeting and made a response to a question from the Chair of the Committee.

Summary of submissions

Mr David Dew

6. Mr Dew states that Council's proposal does not comply with the appropriate provisions of section 19V(3)(a) of the Local Electoral Act 2001 (island or isolated communities) and that the only scenario that complies with the $\pm 10\%$ population criteria is the 15 elected members scenario.
7. To give context to Mr Dew's submission, section 19V(1) to (3) of the Local Electoral Act 2001 states:

19V Requirement for fair representation and other factors in determination of membership for wards, constituencies, and subdivisions

- (1) *In determining the number of members to be elected by the electors of any ward or constituency or subdivision, the territorial authority or regional council and, where appropriate, the Commission must ensure that the electors of the ward or constituency or subdivision receive fair representation, having regard to the population of every district or region or community and every ward or constituency or subdivision within the district or region or community.*
- (2) *For the purposes of giving effect to subsection (1), the territorial authority or regional council and, where appropriate, the Commission must ensure that the population of each ward or constituency or subdivision, divided by the number of members to be elected by that ward or constituency or subdivision, produces a figure no more than 10% greater or smaller than the population of the district or region or community divided by the total number of elected members (other than **[[members elected by the electors of a territorial authority as a whole, if any, and]]** the mayor, if any).*

(3) *Despite subsection (2),—*

- (a) *if the territorial authority or the Commission considers that the effective representation of communities of interest within island communities or isolated communities situated within the district of the territorial authority so requires, wards and subdivisions of a community may be defined and membership distributed between them in a way that does not comply with subsection (2):*
- (b) *if the regional council or the Commission considers that effective representation of communities of interest so requires, constituencies may be defined and membership distributed between them in a way that does not comply with subsection (2).*

8. The report of 20 July 2009 covered this issue, especially in paragraphs 58 to 61. Members will also be aware that this issue was considered during the 2004 review.
9. Mr Dew is correct in that if the island or isolated community argument as provided for in section 19V(3)(a) of the Local Electoral Act 2001 is deemed to be not appropriate, then the only scenario, that was covered in the report of 20 July 2009, was that contained in paragraph 76 and consisted of 15 members (the extra two members representing the Blenheim and Wairau/Awatere wards).

Mr Cliff Smith

10. Mr Smith states that the proposal for three members to represent the Wairau/Awatere Ward does not represent “fair and effective representation” for the Wairau Valley, Wairau Valley Township and Renwick and does not represent the diversity of the Wairau Valley community.
11. Up until the 2004 review the Awatere was a distinct ward from the Wairau (the Wairau ward covered the Wairau Plains from just north of the Wairau River to Seventeenth Valley and through the Southern Valleys and the Wairau Valley). Previous Councils had always classified this whole area as a ‘community of interest’.
12. In the 2004 review, following the introduction of the $\pm 10\%$ population criteria as the sole criteria (excepting the island or isolated community provision), Council was faced with the decision of what to do with the Awatere ward as its population was insufficient to warrant a separate ward in the Awatere. Council agreed to amalgamate the Wairau and Awatere wards as it was considered that owing to the change of land use the two wards shared a ‘community of interest’.

Process

13. Under section 19N(1)(a) of the Local Electoral Act 2001, Council must, within six weeks of the closing date for submissions, consider the submissions and may amend the proposal as they see fit.
14. Specific public notice must then be given detailing any amendment, reasons for any amendment and/or reasons for rejecting any submission, and specifying the right of appeal and/or objection (see also sections 19O and 19P of the Local Electoral Act 2001).
15. The last date for this to happen to meet legislative requirements is 6 November 2009.

Summary

16. Members need to decide if they want to reconsider the argument for isolated communities within the Pelorus/Northern Sounds and the Picton wards in light of Mr Dew’s submission. This would require Council to accept the scenario for 15 councillors or alternatively would require a complete review of the ward structure. This would need to be completed by 6 November 2009.

17. Members also need to decide if they wish to review the boundaries of the ward, if it is considered that the 'community of interest' is different in the Wairau Valley from the rest of the Wairau/Awatere area as submitted by Mr Smith. Again this would need to be completed by 6 November 2009.
18. Council must, by 6 November 2009, consider the submissions and may amend the proposal as they see fit. Specific public notice must then be given.

RECOMMENDED

No recommendation pending discussion by Council.

9. Decision to Conduct Business with the Public Excluded

Decided That the public be excluded from the following parts of the proceedings of this meeting, namely:

- Confirmation of Public Excluded Minutes
- Committee Reports (Public Excluded Sections)

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter and the specific grounds under Section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General Subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for the passing of this resolution
Minutes and Committee Reports	As set out in the Minutes and Reports	That the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding exists under Section 7 of the Local Government Official Information and Meetings Act 1987.

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