



Extraordinary Meeting of the Hawke's Bay Regional Council

Date: Wednesday 19 May 2021
Time: 2.00pm
Venue: Council Chamber
Hawke's Bay Regional Council
159 Dalton Street
NAPIER

Agenda

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1.	Welcome/Karakia/Apologies/Notices	
2.	Conflict of Interest Declarations	
3.	Confirmation of Minutes of the Regional Council Meeting held on 3 and 4 May 2021	
Decision Items		
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HAWKE'S BAY REGIONAL COUNCIL

Wednesday 19 May 2021

Subject: ESTABLISHMENT OF MĀORI CONSTITUENCIES FOR HAWKE'S BAY REGIONAL COUNCIL

Reason for Report

1. This deliberations report provides the Council with information to assist it to make an informed decision on whether to establish one or two Māori Constituencies in time for the 2022 local elections.
2. It sets out the recent background to the decision including key themes raised by submitters during consultation and some national context on what other councils have decided.

Officers' Recommendations

3. Council officers recommend that Councillors consider the views expressed by written submissions received and provided to Council, as well as verbal submissions heard on 3 and 4 May in conjunction with the information in this report in making a decision on whether to establish one or two Māori Constituencies in time for the 2022 local elections.

Background

4. In February 2020, the Local Electoral Act (the Act or LEA) was amended to:
 - 4.1. repeal the provisions in the Act that relate to polls on the establishment of Māori wards and constituencies
 - 4.2. prohibit binding council-initiated polls on whether to establish Māori constituencies (while retaining the right for councils to initiate non-binding polls to gauge public sentiment), and
 - 4.3. establish a transition period ending on 21 May 2021 during which any local authority may, regardless of any previous decisions or previous poll outcomes, resolve to establish Māori constituencies for the 2022 local elections.
5. At the Regional Council meeting on 24 February 2021, the Council took the opportunity provided by the amendment to revoke its previous resolution to hold a poll at the 2022 local elections. The Council then resolved:
 - 5.1. To undertake community engagement and consultation on a proposal to establish one or more Māori constituencies, including public submissions, to enable a substantive decision on whether to establish Māori constituencies before 21 May 2021.

Scope of the decision

6. Only two options were proposed during consultation; being to establish or not establish Māori constituencies for HBRC for the 2022 local elections. Submitters were also able to choose "Don't know". Space was provided for submitters to provide their reasons.
7. Council did not take a position on which of the two options it preferred. This reflected Council's desire to hear directly from those interested and affected with an open mind.
8. Other options for tangata whenua representation were outside the scope of this consultation, reflecting the prescriptive nature of the LEA provisions related to establishing Māori constituencies.

9. Council can only decide in favour of one of the two options as consulted on without requiring further consultation.

Consultation

10. Following the 24 February Council resolution, a draft Communications Plan was presented to Council at a workshop on 3 March 2021. As per the Plan, Council completed a largely online campaign over four weeks, between 22 March and 22 April, to gauge public sentiment in relation to the establishment of Māori constituencies in time for the 2022 local elections.
11. Staff are confident that the consultation undertaken is compliant with the requirements under the Local Government Act 2002.
12. The consultation period, 22 March through 22 April, was supported by:
- 12.1. Hawke's Bay Today Public Notice
 - 12.2. Media release
 - 12.3. Dedicated web-page with Consultation Document, online submission form, videos and process timeline
 - 12.4. Facebook videos and posts
 - 12.5. Email to Community and Business Leaders
 - 12.6. Email to submissions contacts database
 - 12.7. Online Poster to promote hui-a-iwi
 - 12.8. Four hui-a-iwi open to the public
 - 12.9. Facebook Live event.
13. The four hui-a-iwi open to the public were held in Wairoa, Napier, Waipukurau and Hastings. Approximately 90 people attended the hui, with the Wairoa hui live-streamed by a taiwhenua member which further increased reach. Key themes or questions raised at the hui are noted in the table below.




Area	No. of Attendees	Key points
Wairoa	47	<ul style="list-style-type: none"> • Unanimous support for Māori constituencies (straw poll by hands raised on the night) • Discussion that Māori constituencies is not the end goal and the bigger conversation about Māori representation needs to be advocated to parliament. <i>"We can't open the other boxes until we open this box"</i> • Support for keeping the total of number of councillors the same (as Wairoa DC did when establishing Māori seats) or risk diluting Māori representation, particularly given council has had 9 members since inception and over 30 years. • Querying non-attendance of elected representatives from other than the Wairoa constituency • Disappointment that the language used in the consultation document was not reflective of Treaty partnership and perceived to diminish Māori status as a Treaty partner • What voice will Māori Committee/ RPC have in the representation review, or continue to have if constituencies are to go through? • If the answer is no, what are our options? • If they don't value us as a partner, do we stay? (participate in already established engagements, e.g. Māori Committee)

Area	No. of Attendees	Key points
Napier	22	<ul style="list-style-type: none"> Stressed the importance of Treaty partnership, decision-making rights shouldn't decline as population does – the Treaty was an equal partnership Acknowledgement of HBRC making whānau aware No evidence of treaty partnership in HBRC's literature Fear that "seemingly so close" but consultation with majority could result in negative outcome. Why do non-Māori have a say in [our] partnership?"
Waipukurau	11	<ul style="list-style-type: none"> Clarification of representation review process, questions around submissions process and hearings process Desire for representatives at the decision-making table who understand and can advocate for local Māori rights and interests Focus on future generations Call to action for HBRC staff to prepare material that engages rangatahi so they can understand its importance.
Hastings	10	<ul style="list-style-type: none"> Important aspect stressed was <i>guaranteed</i> seats at decision making table Questioning why hui-a-iwi were not held at marae One attendee noted that he was here to represent marae and would take kōrero back National vs. local, what needs to go to parliament and what decisions can be made at a local level.




14. Feedback from attendees at the hui-a-iwi overwhelmingly supported the establishment of Māori constituencies.

Submissions received



15. A total of 1090 submissions were received through the consultation period. The majority were online but a small number used hard-copies via email or handed them in at the events. There were two late submissions (not included in the final figure).
16. The number of submitters supporting the proposal was 973 (89.27%).

Yes	 89.27%	973
No	 10.46%	114
Don't know	 0.28%	3
Total		1090

17. The breakdown of submitters on the electoral rolls is as follows.

Māori roll	 70.37%	767
General roll	 26.88%	293
Not registered	 2.75%	30

18. The breakdown of those who stated they were residents or ratepayers of Hawke's Bay versus those who are not is as follows.

Choices	Percentage	Count
Yes	 93.76%	1022
No	 6.24%	68

19. Of the 1090 submissions, 214 made no comment (19.6%).

The headlines and key themes of submissions

20. The overwhelming majority (89%) of submitters support the establishment of Māori constituencies.
21. Taiwhenua and marae were highly engaged resulting a large number of submissions in support which supports the previously stated position of the Māori Committee and Tangata Whenua Representatives on the Regional Planning Committee.
22. Of the 114 submitters who did not support the establishment of Māori constituencies, two clear themes were:

Theme	Sub themes
Unnecessary	<ul style="list-style-type: none"> Support seats based on merit / best candidate Current system is working Already opportunities for Māori voice
Undemocratic	<ul style="list-style-type: none"> Doesn't give fair representation Race based seats are divisive

23. Of the 973 submitters in support the key themes included:

Theme	Sub themes
Right thing to do	<ul style="list-style-type: none"> Honours Te Tiriti o Waitangi Fairer representation for Māori Gives effect to legal requirement to include Māori in decision-making Better late than never Step in the right direction
Current system has failed Māori	<ul style="list-style-type: none"> Dedicated seats needed to guarantee representation Decision-making rather than advisory for meaningful influence
Will result in better environmental outcomes	<ul style="list-style-type: none"> Natural resource management is high priority for Tangata Whenua Te Ao Māori takes an intergenerational view focussed on holistic outcomes Previous decisions of HBRC and Catchment Boards disadvantaged Māori, having Māori at the decision-making table will mitigate that risk for future decisions
Need representatives with same beliefs, values and world view	<ul style="list-style-type: none"> Members of Māori descent elected from general roll don't have the 'mandate' to represent Māori Puts Māori view at the centre Having Māori representatives will encourage higher voter participation, particularly rangatahi.

24. Of the three submitters who did not know whether they supported the establishment of Māori constituencies, one highlighted the uncertainty around the cost and the other felt the process was too rushed to understand the impact.

National context

25. There are 78 councils in Aotearoa New Zealand. At the 2019 local elections there were three councils with Māori Wards or Constituencies, being:
- 25.1. Bay of Plenty Regional Council by *Bay of Plenty Regional Council (Maori Constituency Empowering) Act 2001*

- 25.2. Waikato Regional Council by resolution in 2013 (reconfirmed by 2018 Representation Review)
- 25.3. Wairoa District Council as result of a poll at the 2016 election.
26. Since the option to establish dedicated Maori seats was provided by the Local Electoral Act in 2002, 24 Councils have resolved to introduce Maori representation. In all but one (Waikato Regional Council) instance having the decision overturned by a poll.
27. The following Councils resolved in 2020, to establish Māori seats for 2022 elections:
- 27.1. Kaipara District Council – 3 November 2020
 - 27.2. Gisborne District Council – 23 November 2020 (after consultation)
 - 27.3. New Plymouth District Council – 1 July 2020
 - 27.4. Northland Regional Council – 21 October 2020
 - 27.5. Ruapehu District Council – 2 November 2020
 - 27.6. South Taranaki District Council – 12 November 2020 (requested by iwi)
 - 27.7. Taupo District Council – 23 November 2020 (reaffirmed 27/4/21)
 - 27.8. Tauranga District Council – 25 August 2020
 - 27.9. Whangarei District Council – 3 November 2020 (reaffirmed 25/3/21)
28. Since the *Local Electoral (Māori wards and Māori constituencies) Amendment Act* came into force, the following councils have resolved to establish Māori wards/constituencies for the 2022 local election:
- 28.1. Palmerston North City Council – 14 April 2021
 - 28.2. Taranaki Regional Council – 7 April 2021
 - 28.3. Ōtorohanga District Council – 20 April 2021
 - 28.4. Matamata-Piako DC – 30 April 2021
 - 28.5. Rangitikei DC – resolved 30 April 2021
29. In addition to HBRC, the following councils have initiated consultation to either reconsider previous decisions, or to consider the question within the transition period offered by the LEA amendment (for the 2022 election):
- 29.1. Far North District Council – consultation undertaken with LTP process and decision on 4 May 2021 was to establish Māori wards.
 - 29.2. Waipa District, Horowhenua District, Horizons Regional and Hamilton City Councils have all finished community consultation and will decide on 19 May.
 - 29.3. Whakatane District Council – Consultation finished 30 April 2021 and will make its decision on 20 May.
 - 29.4. Wellington City Council – in principle decision by Strategy and Policy Committee on 11 March 2021 pending consultation. Feedback from consultation sat at 94% in support as of 11 May, so it is anticipated the WCC final decision on 13 May will establish a Māori ward.
 - 29.5. Invercargill City Council – Consultation through a Community Panel as part of pre-engagement on their Representation Review fed into a decision of the Policy & Partnerships Committee on 11 May 2021 to not establish a Māori ward.
 - 29.6. Hastings District Council – Consultation via online survey ran 5-12 May 2021 and Council will make its decision on 18 May.
 - 29.7. Manawatu District Council – 6 May 2021 resolved to wait until 2023 to consider establishing a Māori ward. Community opposition to that decision (not to establish a Māori ward for the 2022 election) included 12 marae cutting formal ties with the

Council and a 500-strong protest hikoi on 11 May. As a result a Notice of Motion to revoke the 6 May decision and instead establish a Māori ward will be considered by the Council on 20 May.

30. Napier City and Central Hawke's Bay District councils will consider Māori wards as part of their six-yearly Representation Review processes in 2023-24 for the 2025 elections.

Significance and Engagement Policy Assessment

31. It was due to the significance of this decision that Council undertook consultation with the community to ascertain their views.

Engagement with Tangata Whenua about Māori constituencies to date

32. Leading up to the Council's 2017 decision on whether to establish Māori representation, engagement with tangata whenua was undertaken over several months during which hui were held to provide tangata whenua with the opportunity to come together to understand and consider their aspirations in relation to Māori representation on the Council.
33. The collective preference from the Hui a Iwi was in support of the establishment of Māori constituencies under the Local Electoral Act and put forward as a recommendation to the extraordinary Regional Council meeting on 15 November 2017.
34. Council again sought the views of tangata whenua about Māori representation in October/November 2020. Tangata whenua representatives of the RPC and the Maori Committee unanimously supported the establishment as presented to the Council on 18 November 2020.
35. Most recently, on 10 February 2021, the Māori Committee resolved unanimously:
 - 35.1. Supports the Council taking immediate action to revoke the previous (18 November 2020) resolution to hold a poll on the establishment Māori constituencies at the next (2022) election and resolve to establish Māori constituencies for the next (2022) election.

Financial and Resource Implications

36. If the Council decision is to establish one or more Māori constituencies for the 2022 local election approximately \$4,000, for the Representation Review, will need to be brought forward to 2021-22 year. The total amount budgeted for maps, survey and advertising is \$13,800 accrued over 6 years. It is anticipated that this may need to be bolstered slightly by re-purposing other funding to ensure targeted engagement with tangata whenua in relation to the Māori constituency name and boundary options.
37. The remuneration for councillors is determined by the Remuneration Authority. The governance pool provides the total amount that can be paid in remuneration to councillors (not including the Chair/Mayor) in each individual Council. Each council's governance pool is aligned with their ranking of the Council on the relevant size index and within the framework of the local government pay scale. The governance pool has no relationship to the number of councillors. If a Council wishes to change the number of councillors and the Local Government Commission agrees, the size of the governance pool will not change, it will be shared amongst more or fewer councillors.

Next Steps

38. Should Council's decision be to establish one or more Māori constituencies for the 2022 local election, it will be required to undertake a Representation Review to determine:
 - 38.1. The total number of councillors
 - 38.2. The constituencies, their names and borders.
39. Staff will provide a proposed project brief for the Representation Review to the 30 June Regional Council meeting for consideration and initiation. The project plan will include:

- 39.1. Consultation with Taiwhenua representatives on the Māori Committee on the options for the Māori constituencies
- 39.2. Table of milestones and Council decision points, and their dates as prescribed by the Local Electoral Act (notably for a review involving Māori constituencies a council's initial resolution (of proposed representation arrangement) must be made by 31 August 2021).

Key obligations of Council in making its decision

40. In making its decision, Council is required by the Local Government Act 2002 to:
 - 40.1. consider the advantages and disadvantages of the reasonably practicable options identified in this report (i.e. to establish or not establish Māori Constituencies).
 - 40.2. consider the views and preferences of all persons likely to be interested in or affected by the matter (as expressed through consultation). This means:
 - 40.2.1. giving due consideration and having regard to all views and preferences, and
 - 40.2.2. giving due consideration and having regard to such views and preferences with an open mind (i.e. not having a predetermined view).
 - 40.3. take into account the relationship of Māori and their culture and traditions with their ancestral land, water sites, waahi tapu, valued flora and fauna.
 - 40.4. take account of:
 - 40.4.1. the diversity of the community, and the community's interests within the Hawke's Bay region
 - 40.4.2. the interests of future as well as current communities, and
 - 40.4.3. the likely impact of any decision on the interests referred to above.

Decision Making Process

41. Council and its committees are required to make every decision in accordance with the requirements of the Local Government Act 2002 (the Act). Staff have assessed the requirements in relation to this item and have concluded:
 - 41.1. The decision does not significantly alter the service provision or affect a strategic asset, nor is it inconsistent with an existing policy or plan.
 - 41.2. The use of a special consultative procedure is not prescribed by legislation.
 - 41.3. The decision is significant under the criteria contained in Council's adopted Significance and Engagement Policy and so has been the subject of a four week public consultation process and hearing of submissions.
 - 41.4. The persons directly affected by this decision are those of Māori descent who have chosen to enrol (or may choose to in the future) on the Māori Roll and more widely all voters enrolled to vote in local elections in Hawke's Bay.

Recommendations

That Hawke's Bay Regional Council:

1. Receives and considers the "Establishment of Māori Constituencies for Hawke's Bay Regional Council" staff report in conjunction with the written submissions received and provided to Council, as well as verbal submissions heard on 3 and 4 May 2021.
2. Agrees that the decisions to be made are significant under the criteria contained in Council's adopted Significance and Engagement Policy, and that Council can exercise its discretion and make decisions on this issue having conferred directly with the community

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and persons likely to have an interest in the decision over the period 22 March through 22 April and hearing verbal presentations made on 3 and 4 May 2021.

And either

3. Agrees to establish one or more Māori Constituencies in accordance with Schedule 1, Part 1, 2(2) of the Local Electoral Act, for voters on the Māori electoral roll to elect Councillors on to Hawke's Bay Regional Council in the 2022 and 2025 local elections.

Or

4. Does not establish Māori Constituencies for Hawke's Bay Regional Council.

Authored by:

Sarah Bell
TEAM LEADER STRATEGY AND
PERFORMANCE

Desiree Cull
STRATEGY AND GOVERNANCE
MANAGER

Leeanne Hooper
TEAM LEADER GOVERNANCE

Approved by:

Pieri Munro
TE POU WHAKARAE

James Palmer
CHIEF EXECUTIVE

Attachment/s

There are no attachments for this report.