

Meeting of the Hawke's Bay Regional Council Māori Committee

Date: 21 Aug 2024
Time: 10.00am
Venue: Council Chamber
Hawke's Bay Regional Council
159 Dalton Street
NAPIER

Agenda

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Decision Items		
5.	Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2024 – recommendation to HBRC	5

Parking

1. Paid parking is available on Vautier Street adjacent to the HBRC Building & on Raffles Street.
 2. There is free all-day parking further afield – on Munroe Street or Hastings Street by Briscoes.
 3. There are limited parking spaces (3) for visitors in the HBRC car park – entry off Vautier Street – it would be appropriate that the “visitors” parks be available for the members travelling distances from Wairoa and CHB.
 4. If you do pay for parking elsewhere, please provide your receipt with your tavel claim for the meeting.
- NB:** Any carparks that have yellow markings are NOT to be parked in please.
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Hawke's Bay Regional Council

Māori Committee

21 August 2024

Item 3

Subject: Alternate member appointments

Reason for report

1. The Māori Committee Terms of Reference makes allowance for short term replacements (alternates) to be appointed to the Committee where the usual member/s cannot attend.

Recommendation

That _____ be appointed as a member of the Māori Committee for the meeting of 21 August 2024 as a short term replacement on the Committee for _____.

Authored by:

Leeanne Hooper
Team Leader Governance

Approved by:

Desiree Cull
Strategy & Governance Manager

Subject: Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2024 – recommendation to HBRC

Reason for report

1. This item provides the means for the Māori Committee, as key advisors to Council and representatives of the most affected communities, to consider making a recommendation to the Regional Council on a preferred pathway in response to the requirements of the Local Electoral (Māori Wards and Māori Constituencies) Amendment Act (LEMAA).

Staff recommendations

2. Staff suggest that the Māori Committee makes a formal recommendation to the Regional Council to resolve to retain its Māori constituencies.

Background

5. On 29 May 2024, Hawke's Bay Regional Council submitted in opposition of the proposed changes outlined in the Local Government (Electoral Legislation and Māori Wards and Māori Constituencies) Amendment Act 2024 (LEMAA) and confirmed that:
 - 5.1. In 2021 the Regional Council initiated extensive community engagement directly with the Hawke's Bay community on whether to establish Maori constituencies. This included targeted engagement with iwi, hapu and marae as affected parties and given its significance, a comprehensive region-wide consultation with our communities using the special consultative procedure under the Local Government Act 2002. More submissions were received on this topic than any long-term plan. A resounding 89.23% of the 1,090 submitters supported the establishment of Maori constituencies.
 - 5.2. Following public consultation, HBRC voted unanimously to establish Māori constituencies. This was further consulted on as part of a Representation Review and the Council agreed to establish two Māori constituencies – Māui ki te Raki and Māui ki te Tonga. Māori constituency councillors were elected for the first time at the local body elections on 8 October 2022.
6. Following over 10,000 submissions, the LEMAA was passed on 30 July 2024 and has been enacted.
7. The LEMAA amends the Local Electoral Act 2001, the Local Government Electoral Legislation Act 2023 and the Local Electoral Regulations 2001, and:
 - 7.1. reinstates the ability for 5% of electors to demand a poll on Māori wards and Māori constituencies.
 - 7.2. requires councils to hold a binding poll during the 2025 local elections if a poll was not previously held when establishing Māori wards/constituencies, determining if the region should be divided into one or more Māori constituencies from the 2028 general election.
 - 7.3. adjusts the statutory timeframes for local elections to give more time for the postal delivery of voting papers.
8. The Act directs that by 6 September 2024, the Regional Council must make an active decision to retain their Māori constituencies or to disestablish them.

9. Schedule 1 does not set out any criteria for councils to consider when deciding whether or not to disestablish Māori constituencies however guidance from the Local Government Commission suggests that councils should consider the principles of the Local Electoral Act as set out in section 4, being:

1. *The principles that this Act is designed to implement are the following:*

- (aa) representative and substantial electoral participation in local elections and polls:
- (a) fair and effective representation for individuals and communities:
- (b) all qualified persons have a reasonable and equal opportunity to—
 - (i) cast an informed vote:
 - (ii) nominate 1 or more candidates:
 - (iii) accept nomination as a candidate:

10. The following flowchart illustrates the two pathways available to the Council and the subsequent processes required depending on which pathway is chosen:



Options analysis

11. If the Council chooses to retain the Māori constituencies for the 2025 elections, no further action is required until the poll results are known. Any follow-on actions will take place in the lead-up to the 2028 elections.
12. If the Council decides to disestablish its Māori constituencies on 28 August 2024, a subsequent decision must be made by 6 September 2024 regarding the representation arrangements for the 2025 triennial election.
 - 12.1. If the Council reverts to its pre-2020 representation arrangements (pathway 1.1), a full representation review will be required in 2027-28. Under the LEMAA, this review cannot include Māori constituencies, and the next opportunity to consider (re)establishing them would be during the 2033-34 representation review.
 - 12.1.1. Note that HBRC is scheduled to undertake a full representation review in 2027-28 in accordance with the six-yearly cycle.
 - 12.2. If the Council decides to undertake a shortened review in 2024 (pathway 1.2) to determine the representation arrangements for the 2025 elections, the six-yearly review cycle will reset. The next chance to consider Māori constituencies would be during the

2030-31 review. Additionally, the Council must finalise its proposed arrangements, including the number, names, and boundaries of constituencies, by 13 September 2024.

13. Any future representation reviews that consider Māori constituencies, aside from pathway 2.1, may be subject to the 5% petition for a binding poll.

Considerations of tangata whenua

14. Due to the direct impact of the LEMAA on those on the Māori roll and the limited timeframe for the Council's decision, Governance and Māori Partnerships staff selected the Māori Committee to gather tangata whenua views for a recommendation to the Council. This process began with an email to all Regional Planning and Māori Committee tangata whenua representatives on 16 July, followed by a subsequent email after the enactment of the LEMAA.
15. In response to the request for views, as of 15 August, we have received five recommendations in support of retaining Māori constituencies and conducting a binding poll at the 2025 local elections from Maungaharuru Tangitū Trust, Mana Ahuriri Trust, Ngāti Kahungunu Iwi Incorporated, Wairoa Taiwhenua, and Te Taiwhenua o Te Whanganui-a-Orotū.

Decision-making

16. 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:
 - 16.1. The decision does not significantly alter the service provision or affect a strategic asset, nor is it inconsistent with an existing policy or plan.
 - 16.2. The use of the special consultative procedure is not prescribed by legislation.
 - 16.3. The persons affected by this decision are voters in Local Government elections.
 - 16.4. Given the nature and significance of decision to be made, the Māori Committee can exercise its discretion without consulting with the wider community.

Recommendations

That the Māori Committee:

1. Receives and considers the *Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2024 – recommendation to HBRC* staff report.
2. Recommends that Hawke's Bay Regional Council:
 - 2.1. Resolves to retain the Māui ki te Raki and Māui ki te Tonga Māori constituencies for the 2025 elections.

Or

 - 2.2. Resolves to disestablish the Māui ki te Raki and Māui ki te Tonga Māori constituencies.

Authored by:

Jack Smith-Ballingall
Manager, Central & Internal Relationships

Leeanne Hooper
Team Leader Governance

Approved by:

Te Wairama Munro
Te Pou Whakarāe

Attachment/s

- 1 [📄](#) Feedback received on Māori constituencies

From: Bayden Barber <bayden@kahungunu.iwi.nz>
Sent: Monday, August 5, 2024 1:35:13 PM
To: Te Wairama Munro <tewairama.munro@hbrc.govt.nz>
Cc: Chrissie Hape <chrissie@kahungunu.iwi.nz>
Subject: Re: Pathway for Māori Constituencies

Kia ora Te Wairama,

Ngāti Kahungunu requests that HBRC retains its Māori Wards. The following submission was submitted ā waha to the Select Committee on 5 July in terms of why Māori Wards should be retained.

On behalf of Kahungunu I am writing to express our strong opposition to the Bills proposals to reinstate the local referendum on the establishment or ongoing use of Māori wards and Māori constituencies in local government including the requirement to hold a poll at the next local body elections on any Māori wards or Māori constituencies established without one. Additionally, we oppose the proposal to adjust the statutory timeframes for local elections to provide more time for postal delivery of voting papers.

This proposal is a breach of the Treaty of Waitangi, specifically Article 2, which guarantees the right of Māori to rangatiratanga, or self-determination. Rangatiratanga is a fundamental right that enables Māori to make decisions about their own affairs, free from external coercion or interference. By asking the general population to vote on the establishment of Māori wards, this proposal undermines the very essence of rangatiratanga and the Treaty principles of partnership and autonomy. The Human Rights Commission has defined rangatiratanga as "the right of Māori to make decisions about their own affairs, to determine their own future, and to control their own life and resources". This proposal denies Māori the right to make decisions about their own representation and governance structures, and instead subjects them to the whims of the general population.

Māori wards are a crucial step towards addressing the significant underrepresentation of Māori in local government. They provide a dedicated voice for Māori communities and enable more effective engagement and decision-making that reflects the needs and aspirations of tangata whenua. The introduction of Māori wards is a long-overdue recognition of the Treaty's principle of partnership and the rights of Māori to participate in governance. It is a vital step towards reconciliation and redressing the historical exclusion of Māori from decision-making processes.

Binding referendums on Māori wards would be a retrograde step, potentially undermining the hard-won progress made towards Māori representation. Such referendums would be susceptible to misinformation, bias, and voter suppression, and could lead to the disenfranchisement of Māori communities. They would be subject to the whims of a potentially uninformed or prejudiced electorate and could lead to further disenfranchisement of Māori communities. This is particularly concerning given the history of colonialism and discrimination that Māori have faced.

Local governments have a democratic mandate to make decisions on behalf of their voting population. They are elected to represent the diverse needs and interests of their communities and have the expertise and knowledge to make informed decisions about local governance. Central government interference in the democracy of local government is an overreach and undermines the principles of local self-government. Local governments should be able to make decisions about their own representation and governance structures without being forced to resort to referenda.

It is notable that local governments are not required to hold binding referendums on other types of wards, such as rural wards or local council boards. This suggests that this bill is specifically targeting Māori and perpetuating a long history of discrimination and marginalization. Māori have been historically excluded from decision-making processes, and this proposal continues that legacy.

Furthermore, I oppose the proposal to adjust postal delivery timeframes to give more time to homeowners living outside the region. This proposal disproportionately benefits middle-aged Pākehā homeowners who are more likely to live outside the region, while disenfranchising Māori and other marginalized communities who are already underrepresented in local government. This is a clear example of systemic racism and discrimination, and we urge the committee to reject this proposal.

2. My/our recommendations

We urge the committee to reject this proposal, support the establishment of Māori wards in local government and respect the rights of Māori to self-determination and rangatiratanga. Local governments must be free to make their own decisions about representation and governance structures, without interference from central government. We also urge the committee to consider the disproportionate impact of this proposal on Māori and other marginalized communities, and to prioritize Māori rights and interests in any decision-making process. This is a critical step towards a more inclusive, equitable, and representative democracy that honours the Treaty of Waitangi and the rights of tangata whenua.

Bayden Barber
Chair
Ngati Kahungunu Iwi Incorporated

From: Tania Hopmans <thopmans@xtra.co.nz>
Sent: Thursday, August 15, 2024 8:43 AM
To: Te Wairama Munro <tewairama.munro@hbrc.govt.nz>
Cc: Adele Small <adele@tangoio.maori.nz>
Subject: FW: Pathway for Māori Constituencies

Tēnā koe Te Wairama

Thank you for your email. On behalf of the Maungaharuru-Tangitū Trust, I confirm our support for retaining Māori Constituencies. and I confirm I will be attending the Māori Committee hui next week to discuss this kaupapa, most likely via zoom.

We assume there will be strong support for retaining Māori Constituencies at that hui and that the Council will pass a resolution on 28 August in support of Māori Constituencies. The next issue will be what the Council will do to communicate with the public about the poll next year. We very much welcome that discussion – kia mahi tahi tātau.

Ngā mihi

Tania Hopmans
Toihau | Chair
Maungaharuru-Tangitū Trust

From: Nigel How <theflaxfairy@hotmail.com>
Sent: Tuesday, August 13, 2024 10:07 AM
To: Te Wairama Munro <tewairama.munro@hbrc.govt.nz>
Cc: Katarina Kawana (TTOTW) <khkawana@gmail.com>; henaremita@xtra.co.nz; Wairoa Taiwhenua <wairoa.tai.whenua@xtra.co.nz>
Subject: Re: Pathway for Māori Constituencies

Tena koe Te Wairama.

Warmest thank-you for your email and information.

Ngati Kahungunu Wairoa Taiwhenua Incorporated Board met Monday 12 August 2024 and discussed the pathway via the information provided.

On behalf of our some 10,000 registered members, our Board unanimously supported our position to retain HBRC Maori Constituencies.

Would you please convey this for the Maori Committee as part of their considerations.

Thank-you once again with all our best to you and your team.

Pai Marire, Nigel.

Nigel How,

Executive Chairman of Ngati Kahungunu Wairoa Taiwhenua Incorporated.

From: Matthew Mullany | Te Taiwhenua <tumuwhakarae@taiwhenua.com>
Sent: Wednesday, August 14, 2024 9:11 AM
To: Te Wairama Munro <tewairama.munro@hbrc.govt.nz>; Hori Reti <Hori@tangoio.maori.nz>
Cc: apirobin52@gmail.com; Peter.eden@npdt.co.nz; taiao@tangoio.maori.nz
Subject: RE: Pathway for Māori Constituencies

Kia ora Te Wairama,

Thanks for your email and for advising the Taiwhenua regarding the new legislation and the Council's process regarding Māori constituencies.

We apologise for not being able to submit the views of the Taiwhenua prior to the closing of the consultation period. The Taiwhenua is in support of the establishment of Māori constituencies.

All the best.

Ngā mihi,

Mat

From: Parris Greening <parris@manaahuriri.org>
Sent: Wednesday, August 14, 2024 12:10 PM
To: Te Wairama Munro <ewairama.munro@hbrc.govt.nz>; Chair <chair@manaahuriri.org>
Subject: Re: Pathway to Māori Constituencies

Tena koe Te Wairama

We have sent out this email to our board and provide the following position.

Mana Ahuriri supports HBRC in the establishment of Māori Wards. Ideally we would not want any changes to their establishment and none of the options are great. We acknowledge this is a Crown enforced process on all councils, however the option of Holding a Binding Poll at the 2025 Local Elections seems to be the best option.

Nga mihi

Parris Greening
021786271