

6.3 MĀORI ELECTED MEMBERS ON COUNCIL

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PURPOSE OF THE REPORT

To recommend that Council establish Māori wards for the 2022 and 2025 Local Government elections.

EXECUTIVE SUMMARY

- The Local Electoral Act 2001 directs councils to undertake representation reviews at least every six years. Far North District Council last undertook a representation review, including Māori representation in 2015.
- In 2015, Far North District Council resolved to poll electors on this matter. The poll was lost. The result was applied to the ensuing two electoral cycles (2016 and 2019).
- Council is legally bound to review its electoral options now, including Māori representation, as part of the required six yearly review process of the Local Electoral Act 2001.
- Council has held several workshops on Māori representation and has received advice in this regard. That advice and relevant reports support the introduction of Māori wards/constituencies.
- Having received advice, reports and a chance to debate the intricacies of this provision Council can lead Local Government in the Northland region and introduce Māori wards.

RECOMMENDATION

That Council either:

- a) establish Māori wards for the 2022 and 2025 Local Government elections, or**
- b) resolve to hold a poll of electors on whether or not to establish Māori Wards, with the result applicable to the 2022 and 2025 local body elections, or**
- c) resolve to hold a poll of electors during the 2022 local body elections, or**
- d) maintain status quo, noting that a poll may be demanded by the public.**

1) BACKGROUND

Local authorities are required to review their representation arrangements at least every six years. As defined by the Local Electoral Act 2001 (LEA), representation reviews are reviews of the representation arrangements for a local authority.

Local authorities' representation reviews determine detailed arrangements for:

- the number of electoral subdivisions (if any), and
- their boundaries, names, and number of members.

For territorial authorities, the representation review includes deciding the:

- basis of election (at large, wards, or a mix of both), and
- the establishment of community boards.

In addition to the above representation arrangements, local authorities and communities have the opportunity to consider the:

- electoral system to be used for their elections: first past the post (FPP) or single transferable vote (STV), and
- the establishment of Māori wards/constituencies.

These are matters for local discretion by the local authority. With the options relating to identifying appropriate representation arrangements, for and reflective of, a district and need to be resolved before detailed ward arrangements are determined.

The Council last undertook a representation review in 2015 with results applying to the 2016 and 2019 Local Government elections. At the time, the then Council decided not to establish Māori wards, resolving instead, to conduct a poll of electors. That poll was lost 32%/67%, with 45% of voters engaging in the process. Pursuant to the LEA, Council is again required to undertake a six-yearly review of its electoral options (in time for the 2022 Local Government elections).

Dedicated Māori wards, however, are but one of the provisions put in place by the Crown with the aim to increase Māori representation in local authority decision-making. Further to the LEA, the Council's guiding legislative framework – the Local Government Act 2002 (LGA) and the Resource Management Act 1991 (RMA) – provide a legal obligation for greater participation by Māori in council processes, and act to enhance the provisions of the LEA.

It is important for Council to note that the provisions of the LEA provide for governance representation which differs to participation as provided for in the LGA and RMA. Provisions of the LEA provide a direct avenue for Māori representatives to make governance decisions.

It is also important to note that these enabling provisions are not new. LEA provisions have been in place since 2001, the LGA provisions since 2002, and the RMA provisions since 1991 all of these strengthened several times over the years. Most notably in 2017 Mana Whakahono a Rohe (Iwi Participation Arrangements) provisions were introduced as a mandatory process, aimed again, at enhancing the participation of Māori in council RMA decision-making.

While it is important to note complimentary legislation, this paper specifically addresses the option of governance representation and is the first step in the wider review process. Should Council resolve to establish Māori wards, addressing ward boundaries and names along with calculating ward numbers, will form part of a suite options that Council will consult on, mid-way through 2021.

2) DISCUSSION AND OPTIONS

Several workshops have been held on the LEA provisions. This high-level review provided an opportunity for councillors to engage in discussions and debate the benefits and disadvantages of introducing the provision for Maori elected members on Council.

The workshops and material indicated:

There is significant support by Māori for Council to introduce Māori wards, with a delegation meeting with, and providing this advice, directly to Council. Further, that a recommendation has been received by Northland Regional Council (NRC), from the Māori members of the Te Taitokerau Māori and Council Working Party (TTMAC), recommending that they establish Māori constituencies. That of the 17 non-elected member seats currently filled on this working party, 13 of the iwi Māori affiliate groups either reside wholly or partially in the Far North District. This again is indicative of the support by iwi Māori for the introduction of Māori wards and or constituencies in the region.

Likewise, of the two key mana whenua groups that the Kaipara District Council (KDC) has engaged with, while they had not provided a recommendation to KDC at the time this report was written. It should be noted, that both mana whenua groups are represented on TTMAC and therefore it is fair to assume that they too, support the establishment of Māori wards.

Lastly, the Whangarei District Council (WDC) received a recommendation to establish their relationship committee as a formal standing committee of council. This successfully traversed the decision making of council, with the council endorsing the recommendation, and that of appointing members to other committees of council. It is also understood that the same committee intends to

also recommend the introduction of Māori wards as well. However, this was not able to be qualified at the time this report was written.

In relation to the three councils who have introduced wards/constituencies, both Waikato and Bay of Plenty Regional Councils have maintained them despite the six-yearly review clauses contained in the LEA. For Wairoa, having only been through their first electoral cycle, they are not required to review their decision until following the 2025 Local Body elections. However, they have noted the success of these seats so far and how, both council and the wider community have embraced the decision.

Council was also challenged to consider the LEA provisions against the legislative framework (of Acts that apply to local government), and the moral and legislative framework contained in the intent behind the Treaty of Waitangi. To bear in mind, when deciding, reports from the Waitangi Tribunal, the Human Rights Report on Māori representation and the recommendations of the Royal Commission into the Auckland Governance. All of which, indicate a preference for councils to implement Māori governance options in the spirit of the Treaty of Waitangi.

Having received this information there are four options for council to now consider:

1. Option 1 – Establish Māori wards.
2. Option 2 – Retain the status quo.
3. Option 3 – Resolve to hold a poll in 2021 or combine it with the 2022 local body elections
4. Option 4 – Status quo and wait to see if a poll is demanded.

In considering whether to install Māori elected members on Council, the following principles are also applicable to council’s decision in this regard. These principles are often noted as the key principles for applying the intent of the Treaty of Waitangi.

- Participation: That a decision should reflect the community - the proportion of Māori in a district or region – and provide Māori with an opportunity to have direct input into the governance decision making of council.
- Protection: Enable the provision for guaranteed Māori representation at the governance table.
- Partnership: Acting in good faith having heard directly from Māori.

The following table sets out an assessment of each option, including an assessment against the three principles: Participation, Protection, and Partnership.

Option	Advantages	Disadvantage	Principles
<p>Option 1: Establish Maori Wards</p>	<p>Improved depth of Council decision making capability that is more representative of the Far North’s diversity. Diversity of thinking assists in identifying opportunities & mitigating risk.</p> <p>Strengthened relationships with iwi.</p> <p>Leading by example and being a progressive Council.</p> <p>Sends a strong signal on Council’s commitment to fair representation and equality in Northland.</p>	<p>Insufficient time to conduct district-wide consultation ahead of the 23 November 2020 deadline (but would form a part of the wider representation review consultation review).</p> <p>Will require flow on changes to current representation arrangements.</p> <p>Has the potential to bring about an adverse reaction in some sections of the Northland community.</p>	<p>Achieves all three Treaty of Waitangi based principles.</p>

<p>Option 2: Retain the status quo</p>	<p>No change to the current ward system. No change to councillor remuneration.</p>	<p>Relationship risk having sought advice from Māori but not following through on their desire to establish wards. No certainty that there will be Māori representation via general elections.</p>	<p>Does not achieve any of the Treaty of Waitangi based Principles.</p>
<p>Option 3: Resolve to hold a poll either in 2021 or as part of the local body elections in 2022</p>	<p>Will provide an opportunity for the wider community to provide its views to Council ahead of any decision. A poll combined with the 2022 elections will be 10% of the standalone poll – approximately \$10k.</p>	<p>Relationship risk having sought advice from Māori but not following through on their desire to establish wards. A poll in 2021 will cost approx. \$90,000 and, to date, all polls undertaken by other councils, no matter what the Māori population, have not supported the establishment of Māori wards. The results of the poll in 2022 will be binding for the 2025 and 2028 elections thus pushing it out for another triennium. Simply replicates the decision of the last review –posing reputational risk.</p>	<p>Does not achieve any of the Treaty of Waitangi based Principles.</p>
<p>Option 4: Status quo and then wait to see if a poll is demanded</p>	<p>Will provide an opportunity for the wider community to provide its views to Council ahead of any decision.</p>	<p>Relationship risk having sought advice from Māori but not following through on their desire to establish wards. A poll will cost approx. \$90,000 and, to date, all polls undertaken by other councils, no matter what the Māori population, have not supported the establishment of Māori wards. Simply replicates the decision of the last</p>	<p>Does not achieve any of the Treaty of Waitangi based Principles.</p>

		review –posing reputational risk.	
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Reason for the recommendation

Through the establishment of Māori wards Council will ensure diversity and depth of decision-making. This decision also aligns with the Principles of the Treaty of Waitangi of which the Council must recognise and consider when undertaking its duties under the LGA and RMA.

Implementing the provisions of the LEA will clearly articulate to Māori Council’s commitment to the various relationship agreements it has and the advice it sought and received. It would also take Council from a place of achieving very little in regard to its obligations to Māori as prescribed in legislation, to be a progressive council, leading by example.

3) FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

If Council resolves to establish Māori Wards, it will be required to publicly notify its decision and advise electors that they may demand a poll. Should this occur, Council will then need to undertake a poll. The cost of this has previously been factored into budgets secured for the wider representation review.

ATTACHMENTS

- 1. Attachment 1: Statutory process and timing Māori representation review - A2965087**

Compliance schedule:

Full consideration has been given to the provisions of the Local Government Act 2002 S77 in relation to decision making, in particular:

1. A Local authority must, in the course of the decision-making process,
 - a) Seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
 - b) Assess the options in terms of their advantages and disadvantages; and
 - c) If any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water sites, wāhi tapu, valued flora and fauna and other taonga.
2. This section is subject to Section 79 - Compliance with procedures in relation to decisions.

Compliance requirement	Staff assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	This report has a low level of significance regarding Council's Significance and Engagement Policy. However, it will trigger requirements under the Local Electoral Act 2001.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	Local Electoral Act 2001 – provision for Māori representation. Local Government Act 2002 – Māori participation in council decision making. Resource Management Act 1991 – Māori participation in council decision making. Treaty of Waitangi principles – Protection, Partnership and Participation. Council's Vision, Mission and Values as detailed in the Long-Term Plan. Community outcomes – A wisely managed and treasured environment that recognises the special role of tangata whenua as kaitiaki and Proud, vibrant communities. Whanaungatanga Kī Taurangi (and other Memorandum of Understanding) – relationship agreement with Iwi an agreement founded on the principles of Partnership, Participation and Protection.
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	A decision will apply to the district. Community Boards have been involved in the Council workshops; however, this is a decision of Council.
State the possible implications for Māori and how Māori have been provided with an opportunity to contribute to decision making if this decision is significant and relates to land and/or any body of water.	This report will be of significance to iwi Māori as it relates directly to Māori as elected members. As such, the Council has been in discussion with iwi and have received various reports as supplementary information.

<p>Identify persons likely to be affected by or have an interest in the matter, and how you have given consideration to their views or preferences (for example – youth, the aged and those with disabilities).</p>	<p>If Council resolves to establish Māori wards this would form a part of a suite of information that would go out for wider public consultation mid-2021.</p>
<p>State the financial implications and where budgetary provisions have been made to support this decision.</p>	<p>There are no financial implications at this stage as budget has already been allocated to enable a representation arrangements review.</p>
<p>Chief Financial Officer review.</p>	<p>The Chief Financial Officer has reviewed this report.</p>