



Agenda

2023 Māori Representation Review

**Tuesday 17 October 2013
1.00pm**

**Council Chambers
Queen Street
TE KUITI**

All attendees at this meeting are advised that the meeting will be electronically recorded (audio and video) for the purpose of webcasting to the Council 's website. Every care will be taken to maintain individuals' privacy; however, attendees are advised they may be recorded as part of the general meeting proceedings.



NOTICE OF MEETING

A MEETING OF THE WAITOMO DISTRICT COUNCIL FOR THE PURPOSE OF DELIBERATING ON SUBMISSIONS TO THE 2023 MAORI REPRESENTATION REVIEW IS TO BE HELD IN THE COUNCIL CHAMBERS, QUEEN STREET, TE KUITI ON TUESDAY 17 OCTOBER 2023 COMMENCING AT 1.00PM

COUNCIL MEMBERS

Mayor John Robertson
Deputy Mayor Allan Goddard

Cr Dan Tasker
Cr Janene New

Cr Eady Manawaiti
Cr Janette Osborne

Cr Gavin Todd

MICHELLE HIGGIE
MANAGER – GOVERNANCE SUPPORT

ORDER PAPER

Items of Business

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PLEASE NOTE

1. The business papers attached to this Order Paper set out recommendations and suggested resolutions only. Those recommendations and suggested resolutions **DO NOT** represent Council policy until such time as they might be adopted by Council resolution.
2. This Order Paper may be subject to amendment either by the addition or withdrawal of items contained therein.
3. This Meeting will be **webcast** in real time to the Waitomo District Council website and will also be available for viewing on demand as soon as reasonably practicable following the meeting.

Document No: A692910

Report To: Council



Meeting Date: 17 October 2023

Subject: **Deliberations – Māori Representation Review**

Type: Decision Required

Purpose of Report

- 1.1 The purpose of this business paper is to deliberate on the submissions received on the Council's Review of Māori Representation whether or not to introduce Māori Wards for the 2025 and 2028 local government election, and/or whether to establish a committee with Māori representation.

Background

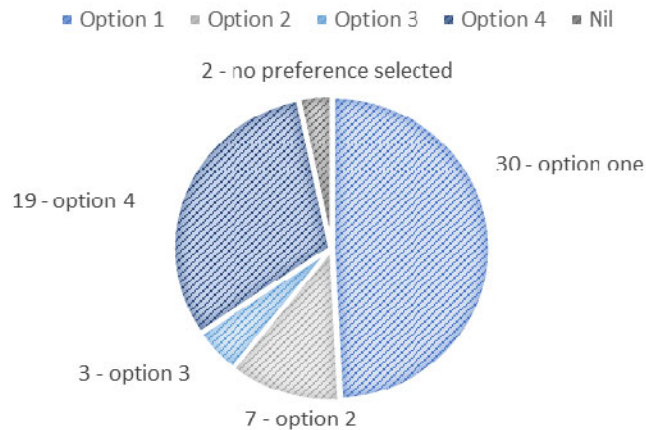
- 2.1 The Local Electoral Act 2001 (LEA) (sections 19Z and 19ZH, and schedule 1A) establishes that a district may be divided into one or more Māori wards for electoral purposes. Waitomo District currently has one rural ward and one urban ward with no Māori wards.
- 2.2 In February 2021, the Local Electoral (Māori Wards and Māori Constituencies) Amendment Bill was passed by Parliament. The Bill amended the LEA to remove all mechanisms for holding binding polls on the establishment of Māori wards, which previously allowed 5% of voters to demand a binding poll. This had often made implementing Māori wards unsuccessful for councils across the country.
- 2.3 Following this, the Local Government Electoral Legislation Bill was passed, which obligates councils who do not have Māori wards to consider them as the first step in the Representation Review process. The Representation Review must be carried out every six years and reviews the number of councillors and the ward structure, and whether there are any community boards within a district. The electoral system is also reviewed as part of the process.
- 2.4 As Waitomo District Council (WDC) did not do a Representation Review prior to the 2022 election, it is necessary to do one prior to the 2025 election and review Māori representation first. The deadline for Council to make a resolution on Māori wards is the 23 November (two years prior to the next local body election) as stated in the Local Government Act 2002.
- 2.5 For other parts of the Representation Review — which relate to the electoral system and the number of councillors or the structure of wards — residents are able to request the Local Government Commission to appeal decisions made by Council and a hearing can be held. Following the Hearing, the Commissioner can overturn the decision the Council has made. This does not extend to decisions around Māori wards where instead, any decision made is final and will take effect for the 2025 and 2028 elections, after which it may be reviewed again.
- 2.6 The review of Māori Representation was originally discussed by Te Rāngai Whakakaupapa Kōrero committee (TRWK) on 10 May 2023, which recommended that public consultation be undertaken on whether to establish Māori wards, but also to consider alternative means of enabling Māori representation as part of the review.

- 2.7 The LEA does not specify the form of consultation, if any, that must be undertaken prior to determining to establish Māori wards or not, but, being about representation, this decision was seen as significant in line with Council's Significance and Engagement Policy. Council resolved to consult the community prior to the decision.
- 2.8 If a decision is made to introduce a committee with Māori representation (option discussed below), the Council will further engage with mana whenua as to the makeup of this committee and its terms of reference.

Commentary

- 3.1 Led by TRWK committee, Council consulted on the following four options:
- a) Option One – Status Quo (continue with TRWK committee)
 - b) Option Two – Māori Wards
 - c) Option Three – A committee with Māori representation
 - d) Option Four – Māori Wards and a committee with Māori representation.
- 3.2 It was important to consult with mana whenua and directly with hapū and iwi, but to satisfy the requirements of the Local Government Act 2002 (LGA) to "provide opportunities for *Māori* to contribute to decision-making processes of the local authority" (s81(1a)), it was resolved that Council also consider the views of Māori who live here but are not connected to a local hapū or iwi. As well as this, as the decision about representation affects everyone in the District, it was decided to consult widely and to encourage anyone in the community to have their say.
- 3.3 The formal consultation period ran for a period of 10 weeks from 10 July to 17 September 2023. During and prior to this time various meetings were held which included a meeting at Te Kūiti Pā (12 June 2023) and a drop-in session at Railway Building 3 (17 August 2023); officers and councillors were invited to attend local Whare meetings (previously Regional Marae Committees) to discuss the review and the options available. Four Te Nehenehenui Whare were engaged with who are within the District: Te Whare ki Hauāuru ki Uta (8 May & 14 August 2023), Te Whare ki Tokanganui a Noho (15 May & 21 August 2023), Te Whare ki Rereahu (8 August 2023), and Te Whare ki Mōkau ki Runga (31 August 2023); a Waikato Tainui marae committee – Te Rūnanga o Ngāti Mahuta ki te Hauāuru – also submitted after being invited to do so.
- 3.4 Brochures outlining the options for the representation review and the submission process were sent to every house in the District, published on the Council website, and left at businesses throughout the District, and notices were also published in the King Country News.
- 3.5 At the close of the submission period at midnight on 17 September, 60 submissions had been received. A further three late submissions were accepted by Council at the Hearing on 4 October 2023.
- 3.6 A Council hearing was held on 4 October 2023 to hear from those submitters who wished to speak to their submissions.
- 3.7 One further late submission has been received from Luke Moss. It is recommended that the late submission be received. However the late submission cannot be included in the analysis below as Council will be required to make a decision on whether or not to accept this submission at this meeting.
- 3.8 Of the 63 received submissions, two had to be discounted as no name or contact information was included. All verbatim submissions were provided to members prior to the Hearings. Two submitters included commentary but did not select a preferred option. Thirty submitters selected options one, seven option two, three option three, and 19 option four. This is illustrated below:

PREFERRED OPTION



3.9 It is important when reviewing submissions to remember that while some submissions represent one person, some are on behalf of marae, Whare, or other groups and represent a large number of voices. It is the consideration of the content, not the numbers 'voting' for and against, that is the important aspect.

3.10 **Summary of Submissions**

3.11 Due to the nature and length of the submissions received, this paper will provide a summary of the varied reasons submitters gave for each option, their concerns, and some response to these where required, rather than each submission in full. The verbatim submissions are available in the attached submissions booklet which was presented to Council prior to the Hearing on 4 October 2023.

3.12 **OPTION 1 – STATUS QUO**

3.13 **Cost**

3.14 Six submitters were opposed to any changes based on the cost. It is not always clear if the cost cited is related to the cost of the consultation process or increases in costs to ratepayers of Māori Wards or a committee. Submitters have argued that costs to ratepayers should not be increased for this when other projects should be prioritised.

3.15 There would be no additional cost to implementing Māori Wards as these councillors would not change the total number of councillors and would be paid from the existing remuneration pool. There would be additional costs associated with implementing a committee. These could include a payment for members and the approved outcomes of actions for the committee.

3.16 Committees are most often paid using the Public Service Fees Framework published by the Office of the Prime Minister and Cabinet¹, which outlines fee ranges based on type of committee and the complexity and scope of the decisions being made. It is likely that a committee of this nature would fit into Group 4, the average fee paid for this group is a daily (per meeting) fee of \$226 - \$435 based on an 8-hour day and including prep time. If for instance there were 6 members on this committee (excluding Councillors) and it met 6 times in a year, the approximate annual meeting cost would be \$12,000. There would likely be additional training and administration costs. There is no existing budget for any projects resulting from this committee.

3.17 The total cost of the consultation including advertising, flyer printing and distribution, drop-in session, and koha for Whare meetings came to \$4,986.

¹ Cabinet Office, (6 Oct 2022), Revised Fees Framework for members appointed to bodies in which the Crown has an interest. (P.28)

3.18 **Division in community and democracy**

3.19 Some submitters were concerned that Māori wards or a committee could be categorised as racist and a concern that this will cause division and segregation in the community. Phrases such as “we are one”, and “we are equal” were used in a number of submissions with submitters seeing the value of the status-quo in that everyone is treated the same, having equal opportunities to be elected.

3.20 Some submitters stated that there are many cultures in the District who should be considered and represented, not just Māori, or raised that race should not be a factor in choosing councillors.

3.21 The phrase “one person one vote” (or similar) was used in five submissions, this expresses the principle of equal representation in voting. However, the number of Māori ward councillors is based on a formula that ensures that everyone in the District is represented equally. No ward can represent more than +/- 10% of the average.

3.22 Concerns about what this means for democracy was raised by several submitters, who saw Māori wards as diminishing the principles of democracy where every person is treated equally. Some stated that although they do understand the views of tangata whenua needs to be considered, this should not come at the expense of basic democracy.

3.23 Conversely, submitters preferring other options sometimes suggested that that creating more equal representation was a truer expression of democracy because more people would be represented.

3.24 The justification or reasoning for specific Māori representation comes from Te Tiriti o Waitangi and the Treaty of Waitangi, where in Article 2 tino rangatiratanga is guaranteed to Māori, which has been interpreted as ‘chieftainship’ and ‘full authority’ over their lands, villages, and taonga. This creates a partnership with the ‘governance’ over the land given to the Crown in Article 1.

3.25 **Māori can be elected on own merit**

3.26 There are a range of views on this topic, but the basic premise is Māori are just as capable, skilled, wise as anyone else to be able to stand and get elected to any Council seat without the need for Māori wards.

3.27 One submission saw Māori wards as implying that Māori are inherently less intelligent and without character. Others phrasing it that Māori should be elected on their own merits as they are currently able to be.

3.28 A few noted that Māori wards limit who Māori can vote for and therefore could limit Māori to only having two seats whereas Māori are currently able to have more — even a full council. The reasoning given for this view is with a high population of Māori, there is less of a need for a Māori ward compared to when Māori are a minority.

3.29 **Opposition to Te Rāngai Whakakaupapa Kōrero Committee**

3.30 There was some opposition to the current TRWK committee, as it was seen as not an equal alternative to Māori wards and undermines Māori knowledge. It was raised that Kaupapa Māori issues are across a wide range of areas and the current committee structure is seen as insufficient to deal with this.

3.31 OPTION 2 – MĀORI WARDS

3.32 **Representation**

3.33 The word representation was used often by thirteen submitters when discussing support for Māori wards. Specific Māori representation is seen by many submitters as consistent with Te Tiriti o Waitangi, and therefore Māori wards provides representation for those who have historically not been well represented.

3.34 Wards are seen as providing direct representation as opposed to the broader representation provided by a committee.

3.35 **Voice and decision-making**

3.36 Submitters who favoured Māori wards often noted that wards ensure that Māori voices are heard around the Council table. Some saw it as significant that this was at all levels of Council (presumably not just at one committee). It is important for many that Māori speak at the *decision-making* table, rather than just an advisory role.

3.37 Māori wards are seen to enable more direct input into decision making via voting rights on Council, this is often important to submitters. Having Māori at the Council table allows Māori to make decisions over things that relate to tangata whenua in the District.

3.38 **Opposition to Māori wards**

3.39 There is some concern that Māori ward members would be elected on popularity rather than skill and knowledge. Two representatives are seen by some as insufficient to deal with the wide range of issues that will arise.

3.40 Submitters often recognised that while Māori seats create more diversity around the Council table, they are also limited in their ability to represent the wide range of Māori voices across the District when there are only two seats.

3.41 Submitters raised concern that the two Māori ward members would be seen as the authoritative voice for all Māori, which could therefore reduce wider consultation or consideration of alternative views and could favour minority Māori voices within the greater Māori community.

3.42 There was some confusion about what a Māori wards is and who can stand in one. Some submitters would prefer that the Māori ward candidate was Ngāti Maniapoto, however this is not enabled by legislation. Candidates must be nominated by someone on the Māori roll who is a resident in the District, but they themselves need not be from Waitomo or of Māori descent.

3.43 **Election 2023**

3.44 Māori wards were first put in place for local body elections in 2001, ACT Party leader David Seymour made a statement this August in the lead up to the 2023 General Election that "We [ACT] will repeal undemocratic Māori wards and re-establish one person, one vote to local elections." If National win the October Election it is most likely ACT would be a coalition partner, and when asked if Māori wards would be repealed by the National Party, leader Christopher Luxon responded, "that's been our view and our position."

3.45 The time frame around this remains uncertain as repealing Māori wards in in neither party's plan for the first 100 days if elected.

3.46 OPTION 3 – A COMMITTEE WITH MĀORI REPRESENTATION

3.47 **Wider participation and representation**

3.48 A committee was favoured by submitters to give wider representation and engagement with a broader range of Māori perspectives than two councillors. It is viewed as a good way to encourage more participation and encourage and teach the next generation to be involved.

3.49 On this point, it was mentioned by some submitters that a committee should not undermine direct engagement with mana whenua, particularly where issues relate to a particular place and are of primary interest to, for instance, one Whare or marae. Mana whenua should still be able to speak directly to Council about their interest in land, waterways, and coastlines.

3.50 Submitters raised the issue of not speaking for other iwi or hapu groups and that committee members would need to speak only for those they represent while being able to facilitate conversations on matters of importance with those iwi or hapu impacted.

3.51 **Committee structures**

3.52 The consultation was open ended with what the structure of a committee might look like and what it would focus on, a number of submitters who favoured option 3 or 4 also offered ideas of how the committee could work. These suggestions are:

- a) "One rep from Te Nehenehenui, one from each hapū sitting within the District or a member from each town/area, one rangatahi rep, and one kaumatua rep."
- b) "Made up of one person from each of the Whare o Te Nehenehenui located within the Waitomo district. Each of the Whare o Te Nehenehenui are already representing their whānau and hapū at a regional level in land, water, and environmental matters in a manner consistent with our values, goals and aspirations."
- c) "It is effective when members are selected and terms of reference determined by the Māori community."
- d) "Members vetted for skills, knowledge and expertise."
- e) "Composition needs to be ongoing conversation. Should take into account Māori communities throughout district, urban and rural, residents and non-resident, marae, whanau, hapu, and papakāinga."
- f) "Made of Hapū within the District." (This was further detailed at the Hearing that there could be a representative from the local hapū from each town in the District).
- g) "It's important to have representation not only for Kaumatua, whenua Māori but also Rangatahi Māori as well."

3.53 It was also raised that a committee should be resourced appropriately.

3.54 OPTION 4 - MĀORI WARDS & A COMMITTEE WITH MĀORI REPRESENTATION

3.55 The benefits proposed for having Māori wards alongside a committee were largely due to the combination of decision-making power at the Council table (wards) and the ability for wider or broader representation through the committee.

3.56 Having the two systems was supported as a way to overcome some of the challenges of Māori wards alone, such as the inability for two elected members to represent the plurality of Māori voices and perspectives. The committee will allow for more voices to be heard and acknowledges the many hapū and marae within the District.

3.57 Some submitters suggested Māori ward councillors be accountable to the advisory committee and could therefore represent the views of the committee at Council meetings.

3.58 It was mentioned that a committee can also help build Te Ao Māori and Matauranga Māori understanding within the Council, and at the same time builds the capability of committee members who may one day go on to be councillors (this was noted particularly as a case for having rangatahi on the committee).

3.59 OTHER TOPICS MENTIONED

3.60 **Building capacity and participation**

3.61 Many submissions mentioned the importance of participation and encouraging people to vote and engage in politics, this point was discussed regularly at Whare meetings. Some saw Māori wards or a committee as a way to help support this, others suggested that status-quo is working, but that education and capability building was needed to encourage participation.

3.62 Encouraging young people to participate is seen as important for getting their voices heard.

3.63 Introducing lessons on democracy into schools is out of WDC's scope, but other methods of raising understanding of local government and how people can engage could be considered.

3.64 **Commitment to have a committee**

3.65 It was largely understood by submitters that Māori wards have legislative backing and if implemented could not be removed for two election cycles. A committee on the other hand is at the discretion of Council. It has been requested that Council commit, in writing, to retain the committee through to 2028. Unfortunately, this would not be possible as each new group of elected members could overturn a decision like this.

3.66 **A 'Pou' model suggested**

3.67 This is having a Māori member, who is not a councillor, elected to each committee of council to provide expertise and Māori input. This is a model that exists in Waipā District Council and Hamilton City Council.

3.68 These councils have many committees that have more specific focuses, in Waitomo there are only three committees, TRWK, the Chief Executive Performance Review Committee, and Audit & Risk Committee. WDC also has working parties for specific areas such as the Proposed District Plan and the Joint Management Agreement with Te Nehenehenui.

3.69 Having Māori members join TRWK is essentially option 3, it wouldn't be appropriate or useful to have an external member join the Chief Executive Performance Review Committee, so the only option is to add a Māori appointed member to the Audit & Risk Committee. It is likely that Māori would not see this as their primary area of interest.

Analysis of Options

4.1 As consulted on, there are four options available to the Council. These are:

a) Option One – Status quo (retain TRWK committee)

The status quo option is to make no changes and continue to use existing relationships with mana whenua to engage with Māori for decision making. The existing TRWK committee will remain as a place where Māori can bring their concerns to Council and will provide guidance and assistance to Council on matters specific to iwi and mana whenua relationships.

This retains the ability for the Council to engage directly with affected Māori on certain projects and localised issues. It also makes voting at elections simpler, as anyone is able to vote for any candidate in their ward, it doesn't matter what electoral roll people are on.

This option does not guarantee representation of Māori at Council, there may be no Māori candidates elected from the existing wards. The structure of TRWK committee currently doesn't allow for unelected members to be part of the committee.

b) Option Two – Māori Wards

Māori wards provide for direct representation of Māori at the Council table, as voters on the Māori roll vote for their preferred candidate in this ward. If no changes are made to the total number of Councillors (this decision will be made in the 2024 Representation Review), there will be two Māori ward councillors voted in from the Māori roll and four councillors voted in from the general roll. Everyone can vote for the mayor.

Ensuring there are seats for Māori at the table can help guarantee representation and make sure Māori voices are heard. Wards may help encourage Māori participation in local government and are consistent with Te Tiriti o Waitangi.

Conversely, Māori ward councillors do not have to be Māori, only nominated by two people on the Māori roll, they also do not need to be from this District. There is some risk a limited number of people will stand for each seat which could result in diminished choice and democracy.

A decision to have Māori wards is recognised for the next two triennial elections, 2025 and 2028.

c) Option Three – A committee with Māori representation

This would be a formal council committee set up to represent Māori interests, made up of some elected members as well as appointed community members. The committee would provide input and expertise into Council decision making for issues of particular importance to Māori.

If this option is selected, the Council will then need to work with mana whenua to determine the make up of the committee and the terms of reference. No decisions have been made about how representatives will be selected.

A committee can potentially provide broader representation than a Māori ward, as there can be more people to represent the diversity of Māori voices. Mana whenua can have more say about who will best represent them. Unlike Māori wards though, the committee members do not have voting rights at the Council table.

Council can make a decision to introduce a committee, but there is no mechanism to 'entrench' it, a later Council can disestablish the committee at any time if it chooses to.

A committee could be established sooner than the establishment of Māori Wards which would not take effect until the next Local Government Election in 2025.

d) Option Four – Māori wards and a committee with Māori representation

This option is to have both Māori wards and a committee with Māori representation.

Considerations

5.1 **RISK**

5.2 Decisions on Māori wards are often controversial with communities as can be seen by the variety of opinions expressed in the submissions, it is very unlikely that any decision made will be popular with everyone in the District.

5.3 The extensive consultation that Council has undertaken does enable Council to make a decision with the community's views in mind after weighing up the reasons submitters have given for their preference.

5.4 **CONSISTENCY WITH EXISTING PLANS AND POLICIES**

5.5 This is consistent with Council plans and policies, WDC is required by the LEA to consider Māori wards for the 2025 and 2028 elections.

5.6 Any decision to introduce a committee with Māori representation will need to be included in the Long Term Plan 2024 – 2034.

5.7 **SIGNIFICANCE AND COMMUNITY VIEWS**

5.8 The legislation does not specify how Council needed to consult on this, but as this decision is affecting representation and governance of Council, it was seen as significant in accordance with WDC's Significant and Engagement Policy.

5.9 Consideration was given to the views of the community during the ten-week consultation period outlined above, with Council considering written and oral submissions.

Recommendation

6.1 It is recommended that Council make a resolution on whether or not to introduce Māori Wards and/or a committee with Māori representation.

Suggested Resolutions

- 1 The business paper on Deliberations – Māori Representation Review be received.
- 2 The Council accepts the late submission from Luke Moss.
- 3 The Council resolve to:
 - a. Retain the status quo and Te Raangai Whakakaupapa Kōrero Committee.
or
 - b. Introduce Māori wards for the 2025 and 2028 Local Government Elections.
or
 - c. Introduce a committee with Māori representation.
or
 - d. Introduce Māori Wards and a committee with Māori representation.



CHARMAINE ELLERY
MANAGER - STRATEGY AND POLICY

11 October 2023

Separate Enclosure: Submissions Booklet – 2023 Māori Representation Review