

Report 11.536
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Committee Council
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Māori constituencies

1. Purpose

For Council to consider the establishment of Māori constituencies with effect from the 2013 triennial elections.

2. The decision-making process and significance

The matter requiring decision in this report has been considered by officers against the requirements of Part 6 of the Local Government Act 2002.

2.1 Significance of the decision

Officers have considered the significance of the matter, taking the Council's significance policy and decision-making guidelines into account. Officers recommend that the matter be considered to have low significance.

Officers do not consider that a formal record outlining consideration of the decision-making process is required in this instance.

3. Background

Under the Local Electoral Act 2011 (LEA) there are two ways that a decision can be made on establishing Māori constituencies:

- The Council may **resolve** that the region be divided into Māori constituencies; or
- A **poll** may be conducted whereby every elector in the region has the opportunity to vote on whether or not the region should be divided into Māori constituencies. The majority view of those who vote will determine the result of the poll. Such a poll could either be initiated by Council or demanded by the public.

It is important to note that neither of these options is mandatory. The Council could in fact do nothing. This would, in effect, be a decision to retain the status quo, i.e. no Māori constituencies.

3.1.1 Council passing a resolution by 23 November 2011

If the Council decides to pass a resolution on establishing Māori constituencies, it must pass a resolution by 23 November 2011 for the Council's decision to take effect for the 2013 elections. The decision of Council would be effective for the next two triennial elections (unless a poll is held), and would continue in effect after these two elections until a further resolution is made by Council or a poll of electors is held.

3.1.2 Council initiates a poll by 28 February 2012

If the Council decides to initiate a poll on the matter of establishing Māori constituencies, it must do so by 28 February 2012 for the result of the poll to be effective for the 2013 elections. The outcome of a poll is binding and overrides a resolution of Council. The result of the poll would be effective for the next two elections and would continue in effect after these two elections until a resolution is made by Council or a poll of electors is held.

3.1.3 Public demands a poll by 28 February 2012

At least five percent (16,755) of the region's electors enrolled at the previous triennial election may demand that a poll be held on the subject of establishing Māori constituencies. As above, demand for a poll must be received by 28 February 2012 for the result to be effective for the 2013 elections. Again, the outcome of a poll is binding and overrides a resolution of Council, and the result of the poll would be effective for the next two elections and would continue in effect after these two elections until a resolution is made by Council or a poll of electors is held.

3.1.4 Act determines number of Māori constituencies, constituency boundaries and number of Māori members

A Council resolution or a poll decides whether or not Māori constituencies will be established. They do not, however, determine how many Māori constituencies shall be established, the boundaries of the Māori constituencies or the number of members that shall be elected by the electors of each Māori constituency. These matters must be determined in line with the requirements of the LEA.

4. Comment

4.1 Application of legislation

4.1.1 Only one Māori member for this Council

The number of Māori members for election must be calculated in line with the LEA (Clause 4 of Schedule 1A). When applying this formula it becomes evident that Greater Wellington could have only one Māori member. This is

the outcome regardless of the total number of elected representatives to this Council.

4.1.2 One Māori constituency to cover entire region

One Māori member would mean that only one Māori constituency could be established and this constituency would cover the entire region.

4.1.3 Māori and general constituencies

If a Māori constituency were created, one member of Council would be elected from the Māori constituency and the other members would be elected from the general constituencies. Only electors on the Parliamentary Māori electoral roll are entitled to vote for candidates in a Māori constituency. Only electors on the Parliamentary general electoral roll are entitled to vote for candidates in general constituencies. No-one can vote in both a general and a Māori constituency.

4.1.4 How Māori constituencies relate to general representation

The establishment of Māori constituencies impacts on the number of general constituency members. This is mainly because the number of general constituency members would be determined by subtracting the number of Māori constituency members from the proposed total number of members of the Council. If, for example, there were 13 members of Council in total, one member would be a Māori constituency member and 12 would be general constituency members.

The LEA requires that a representation review must be undertaken when a decision is made to establish Māori constituencies.

4.2 View of Ara Tahi

Ara Tahi has recently considered the matter of Māori constituencies. Subsequently, each of the iwi authorities represented on Ara Tahi has advised Greater Wellington officers of their view that the Council should not consider establishing a Māori constituency at this time.

4.3 Practical and philosophical considerations

4.3.1 Māori are currently under-represented in local government

In the LGNZ 2007 post-election survey of elected members only 3.6 percent of people elected to councils identified as Māori, with a further 1.2 percent identifying as NZ European/NZ Māori. This percentage has been reasonably static for at least the last three elections, and does not appear to have been impacted by the use of STV in some council elections. At the time of the 2006 Census Māori made up 14.6 percent of the national population.

No local authority has established Māori wards or constituencies under the provisions of the LEA. However, the Bay of Plenty Regional Council is into its third term of having three single-member Māori constituencies, established

under the Bay of Plenty Regional Council (Māori Constituency) Empowering Act 2001, a local Act passed through Parliament at the request of the Council.

4.3.2 Guaranteed Māori voice on Council

The principal advantage of establishing Māori constituencies is to provide a guaranteed Māori voice. It provides for political power sharing because Māori are injected directly into a decision-making role on Council.

Māori constituencies deliver accountability by Māori to Māori. A candidate, who is elected from a Māori constituency, rather than a general constituency, is more likely to represent the views of Māori voters.

4.3.3 Effectiveness of one Māori member in large constituency area

With one Māori constituency that covers the entire region it could be a challenge for one Māori member to represent the interests of Māori electors from across the region.

4.3.4 Impact on Māori voters

Māori voters would only get to vote for one member of Council and that person would have to be standing in the Māori constituency. This could be quite a change for those Māori on the Māori electoral roll who can currently vote for more than one candidate, e.g. electors can vote for up to five candidates in the Wellington constituency.

4.3.5 Impact on other arrangements with Māori

The council currently has various ways it consults and involves Māori / iwi in its decision-making processes, e.g. Ara Tahi, appointments to resource management hearings panels, the appointment of persons nominated by iwi to the Council's standing committees and subcommittee, and membership of Te Upoko Taiao – Natural Resource Management Committee.

Consideration should be given as to whether the establishment of Māori constituencies would complement these existing and well-established arrangements.

4.4 How to make a decision on Māori constituencies

The Council can do nothing, pass a resolution to either establish or not establish Māori constituencies or initiate a poll on the establishment of Māori constituencies. If the Council decides to pass a resolution on establishing Māori constituencies it must pass a resolution by 23 November 2011 for the new arrangements to take effect for the 2013 elections.

4.4.1 Passing a resolution

Passing a resolution to either establish or not establish Māori constituencies provides the region's public with clarity on the Council's position regarding Māori constituencies. If the Council decides to establish Māori constituencies, the decision, along with the public's right to demand a poll on the matter, must be publicly notified.

4.4.2 Not making a decision

Where the Council does not pass a resolution, the status quo is retained, i.e. no Māori constituencies.

4.4.3 Conducting a poll

A poll is a broad form of public consultation as it provides every elector with the opportunity to vote. However, there is the risk of low levels of elector participation should a poll be conducted. This could result in misrepresentation of the wider community's preference. A communication plan for the region's public about the poll may help elector turnout for a poll and ensure electors are more informed, but there are no guarantees.

With less than ten percent of Greater Wellington's population identifying as Māori it is likely that the result of a poll would be against the establishment of Māori constituencies.

A poll on the establishment of Māori constituencies could cost the Council at least \$371,000 (GST excl.) to conduct.

5. Communication

If the Council passes a resolution to establish Māori constituencies then it must notify the public of that resolution and the right of the public to demand a poll within seven days of the resolution.

The Council must also notify the public where it decides to initiate a poll on Māori constituencies.

The Council does not have to notify the public where a resolution is passed to not establish Māori constituencies or the Council decides to do nothing. However, the Council can still decide, if it thinks it appropriate, to place a notice advising the public of the current situation and the public's right to demand a poll on the matter.

6. Recommendations

That the Council:

1. ***Receives the report.***
2. ***Notes the content of the report.***
3. ***Notes that Ara Tahi has considered the establishment of Māori constituencies and that each of the iwi authorities represented on Ara Tahi is of the view that the Council should not consider the establishment a Māori constituency at this time.***

4. *Either:*

- ***Resolves*** to establish Māori constituencies with effect from the 2013 triennial elections

or

- ***Resolves*** to not establish Māori constituencies with effect from the 2013 triennial elections

or

- ***Makes*** no decision on establishing Māori constituencies.

5. *Either:*

- ***Resolves*** to initiate a poll on the matter of establishing Māori constituencies with effect from the 2013 triennial elections

or

- ***Resolves*** to not initiate a poll on the matter of establishing Māori constituencies with effect from the 2013 triennial elections.

6. *Subject to a resolution to not establish Māori constituencies or no decision to establish Māori constituencies, either:*

- ***Resolves*** that a public notice should be issued advising of the outcome of its consideration and the public's right to demand a poll on the matter

or

- ***Resolves*** that a public notice should not be issued advising of the outcome of its consideration and the public's right to demand a poll on the matter.

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