

Mā tō tātou takiwā  
**For our District**

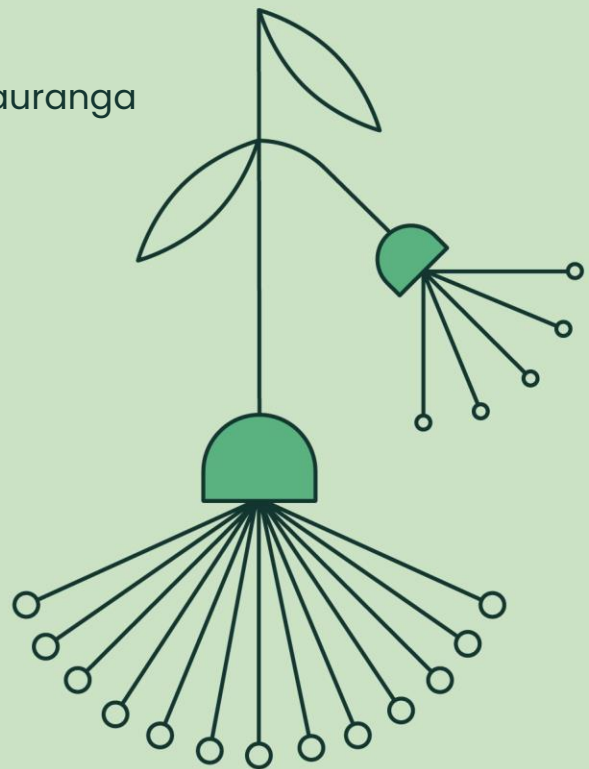
## Extraordinary Council

Te Kaunihera

CL23-13

Thursday, 17 August 2023, 9.30am

Council Chambers, 1484 Cameron Road, Tauranga



# Council

## Membership:

<b>Chairperson</b>	Mayor James Denyer
<b>Deputy Chairperson</b>	Deputy Mayor John Scrimgeour
<b>Members</b>	Cr Tracey Coxhead Cr Richard Crawford Cr Grant Dally Cr Murray Grainger Cr Anne Henry Cr Rodney Joyce Cr Margaret Murray-Benge Cr Allan Sole Cr Don Thwaites Cr Andy Wichers
<b>Quorum</b>	Six (6)
<b>Frequency</b>	Six weekly

## Role:

The Council is responsible for:

- Ensuring the effective and efficient governance and leadership of the District.
- Ensuring that all functions and powers required of a local authority under legislation, and all decisions required by legislation to be made by local authority resolution, are carried out effectively and efficiently, either by the Council or through delegation.

## Power to Act:

To exercise all non-delegable functions and powers of the Council including, but not limited to:

- The power to make a rate;
- The power to make a bylaw;
- The power to borrow money, purchase, or dispose of assets, other than in accordance with the Long Term Plan;
- The power to adopt a Long Term Plan, a Long Term Plan Amendment, Annual Plan or Annual Report and to receive any related audit report;
- The power to appoint a chief executive;
- The power to adopt policies required to be adopted and consulted on under the Local Government Act 2002 in association with the Long Term Plan or developed for the purpose of the Local Governance Statement;

- The power to adopt a remuneration and employment policy;
- The power to approve or change the District Plan, or any part of that Plan, in accordance with the Resource Management Act 1991;
- The power to approve or amend the Council's Standing Orders;
- The power to approve or amend the Code of Conduct for Elected Members;
- The power to appoint and discharge members of committees;
- The power to establish a joint committee with another local authority or other public body;
- The power to make a final decision on a recommendation from the Parliamentary Ombudsman where it is proposed that Council not accept the recommendation.
- To exercise all functions, powers and duties of the Council that have not been delegated, including the power to compulsorily acquire land under the Public Works Act 1981.
- To make decisions which are required by legislation to be made by resolution of the local authority.
- To authorise all expenditure not delegated to officers, Committees or other subordinate decision-making bodies of Council, or included in Council's Long Term Plan or Annual Plan.
- To make appointments of members to Council Controlled Organisation Boards of Directors/ Trustees and representatives of Council to external organisations.
- To monitor the performance of and make decisions on any matters relating to Council Controlled Organisations (CCO), including recommendations for modifications to CCO or other entities' accountability documents (i.e. Letter of Expectation, Statement of Intent), including as recommended by the Strategy and Policy Committee.
- To approve joint agreements and contractual arrangements between Western Bay of Plenty District Council and Tauranga City Council and/or any other local authority including the requirement to review the terms of any such agreements or contractual arrangements.
- To approve the triennial agreement.
- To approve the local governance statement required under the Local Government Act 2002.
- To approve a proposal to the Remuneration Authority for the remuneration of Elected Members.
- To approve any changes to the nature and delegations of Committees.

**Procedural matters:**

Approval of elected member training/conference attendance.

**Mayor's Delegation:**

Should there be insufficient time for Council to consider approval of elected member training/conference attendance, the Mayor (or Deputy Mayor in the Mayor's absence) is delegated authority to grant approval and report the decision back to the next scheduled meeting of Council.

**Power to sub-delegate:**

Council may delegate any of its functions, duties or powers to a subcommittee, working group or other subordinate decision-making body, subject to the restrictions on its delegations and any limitation imposed by Council.

Notice is hereby given that an Extraordinary Meeting of Council will be held in the Council Chambers, 1484 Cameron Road, Tauranga on:  
Thursday, 17 August 2023 at 9.30am Extraordinary

## Order Of Business

<b>1</b>	<b>Karakia</b> .....	<b>6</b>
<b>2</b>	<b>Present</b> .....	<b>6</b>
<b>3</b>	<b>In Attendance</b> .....	<b>6</b>
<b>4</b>	<b>Apologies</b> .....	<b>6</b>
<b>5</b>	<b>Consideration of Late Items</b> .....	<b>6</b>
<b>6</b>	<b>Declarations of Interest</b> .....	<b>6</b>
<b>7</b>	<b>Public Excluded Items</b> .....	<b>6</b>
<b>8</b>	<b>Public Forum</b> .....	<b>6</b>
<b>9</b>	<b>Reports</b> .....	<b>7</b>
	9.1 Establishment of Māori Wards 2023 .....	7
<b>10</b>	<b>Information for Receipt</b> .....	<b>23</b>
<b>11</b>	<b>Resolution to Exclude the Public</b> .....	<b>23</b>
	Nil	

**1 KARAKIA**

Whakatau mai te wairua  
Whakawātea mai te hinengaro  
Whakarite mai te tinana  
Kia ea ai ngā mahi

Āe

Settle the spirit  
Clear the mind  
Prepare the body  
To achieve what needs to be  
achieved.  
Yes

**2 PRESENT**

**3 IN ATTENDANCE**

**4 APOLOGIES**

**5 CONSIDERATION OF LATE ITEMS**

**6 DECLARATIONS OF INTEREST**

**7 PUBLIC EXCLUDED ITEMS**

**8 PUBLIC FORUM**

## 9 REPORTS

### 9.1 ESTABLISHMENT OF MĀORI WARDS 2023

**File Number:** A5627216

**Author:** Chris Nepia, Strategic Kaupapa Māori Manager

**Authoriser:** Rachael Davie, Deputy CEO/General Manager Strategy and Community

#### EXECUTIVE SUMMARY

The purpose of this report is for Council to consider the establishment of Māori wards.

#### RECOMMENDATION

1. That the Strategic Kaupapa Māori Manager's report dated 17 August 2023 titled 'Establishment of Māori Wards 2023' be received.
2. That the report relates to an issue that is considered to be of medium significance in terms of Council's Significance and Engagement Policy.
3.
  - a. That in accordance with the discretion conferred by Section 19Z of the Local Electoral Act 2001, Māori Ward(s) shall be established for the next two triennial elections in 2025 and 2028.

Or

  - b. That in accordance with the discretion conferred by Section 19Z of the Local Electoral Act 2001, Māori Ward(s) shall not be established for the next two triennial elections in 2025 and 2028.

#### LEGISLATION

The Local Electoral Act 2001 (LEA) sets out the processes for reviewing local electoral systems, representation arrangements and voting methods.

The Principles of the LEA are set out in Section 4(1) as follows:

##### Principles

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:
- c) public confidence in, and public understanding of, local electoral processes through—
  - (i) the provision of a regular election cycle:
  - (ii) the provision of elections that are managed independently from the elected body:
  - (iii) protection of the freedom of choice of voters and the secrecy of the vote:
  - (iv) the provision of transparent electoral systems and voting methods and the adoption of procedures that produce certainty in electoral outcomes:
  - (v) the provision of impartial mechanisms for resolving disputed elections and polls.

The power to establish Māori wards is given to Councils under section 19Z of the Local Electoral Act 2001. Any such decision, if taken before 23 November, will be in place for the next two triennial elections.

### **MĀORI REPRESENTATION**

Māori wards are one example of the representation arrangements Councils can have to meet the principles of the Local Electoral Act 2001. Others include wards based on geographic areas, community boards and the type of electoral system. Māori wards are similar to wards that are based on geographic areas which are designed to enable fair representation of a portion of the district's population. The numbers of elected members are based on population-based calculations to ensure a balance of resident to Councillor ratios.

The Local Government Act 2002 also recognises the Crown's responsibility under section 4 to take appropriate account of the principles of the Treaty of Waitangi through facilitation of participation by Māori in local authority decision making processes and, under section 81, a local authority is required to maintain and foster opportunities for Māori to contribute to local government decision-making processes.

Te Kāhui Mana Whenua o Tauranga Moana and Te Ihu o te Waka o Te Arawa are two forums made up of iwi and hapū of Tauranga Moana and Te Arawa ki Tai, together with the Mayor and Councillors of the Western Bay of Plenty District Council (Council). The two forums are recommendatory only and the iwi and hapū members have long advocated that Māori should have a voice on Council to improve representation, strengthen understanding of Te Ao Māori perspectives and enhance Council's decision-making function. Recently the forums determined their respective work programme priorities, one of which is for Council to ensure Tangata Whenua are actively involved in Council decision making processes by considering the establishment of Māori wards.

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The same aspirations were expressed when Council considered the establishment of a Māori ward in 2011 and 2017.

Council recently adopted its community outcomes and strategic priorities including a commitment to growing authentic Te Tiriti based relationships. Improving opportunities for Māori representation aligns with this commitment.

The intention to provide specific Māori representation is often met with the suggestion that Māori wards encourage separatism and are undemocratic. Generally, separatism is understood to mean advocacy for the separation of one group on racial, cultural or political grounds. In 1996 retired Judge Peter Trapski was appointed to consider a proposal by the Bay of Plenty Regional Council (BOPRC) to establish a Māori constituency, in his report he stated:

Another argument against the Proposal, was that it would lead to separatism or apartheid. That is not the view shared by Māori. They say implementing of the Proposal would in fact heal the wounds of separatism; it would emphasise the concepts of partnership and of proportional representation. It would get to the Council table people who were truly representative of the population at large, and once those representatives get to the table, they would become part of a team which would together work on the business of the Council. But if the Proposal is an illustration of separatism, then so must be the present system of election of representatives from within a ward, or an electorate.

Like the use of geographic wards, Māori wards aim to ensure views from a portion of the district are represented at the Council table. Geographic wards are often used by district Councils to ensure that one town is not overly represented with Elected Members and representation is broader.

One of the themes that came through consultation on the BOPRC proposal to establish Māori constituencies, was that they are undemocratic. Judge Trapski described democracy as Government by the people and he did not conclude that having 3 Māori representatives out of 12 members of a Council with a Māori population of 28% would be undemocratic. In that review, there were suggestions that similar provisions should be offered for the Forest and Bird Society or the Institute of Surveyors and Engineers, it was observed that neither of those groups made up 28% and more of the population, nor did they have solemn Treaty of Waitangi obligations with the Crown.

Judge Trapski considered it relevant, when considering whether to establish a local authority Māori constituency, to be guided by the fact that since 1867, the delivery of democratic government in New Zealand has been effected by a system in which there have been Māori electorates and seats in the House of Representatives reserved specifically for people who enrol on the Māori roll.

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While the ability to establish Māori wards reflects the position of Māori under the Treaty of Waitangi, it would give Māori no more voting power than the general population. Judge Trapski observed that:

Like everyone else, Māori will have only one vote. Those who elect to go on the Māori roll are committed to voting on that roll, for one of the candidates offering themselves for election in their particular ward of the Māori constituency. They are able to vote only for candidates offering themselves in that ward, and they only have one vote.

In 1986 the Royal Commission on the Electoral System said:

Although they were not set up for this purpose, the Māori seats have nevertheless come to be regarded by Māori as an important concession to, and the principal expression of, their constitutional position under the Treaty of Waitangi. To many Māori the seats are also a base for continuing the search for more appropriate constitutional and political forms through which Māori rights (mana Māori in particular) might be given effect. It is because of this that many Māori who opt to go on to the General roll continue to support the retention of Māori seats. It is in this context that Māori views concerning the seats should be understood.

And then it continued:

These principles constitute what we believe to be the conditions under which an important minority might reasonably expect to enjoy a just and equitable share of political power and influence in a decision-making system which is subject to the majority principle.

The three existing Māori constituency seats for BOPRC were established under the Bay of Plenty Regional Council (Māori Constituency Empowering) Act 2001.

## **HISTORY OF MĀORI WARDS**

### ***Māori wards pursuant to the Local Electoral Act 2001***

Section 19Z was inserted into the Local Electoral Act in December 2001. Section 19Z gives any territorial authority the power to establish Māori wards. A decision to establish Māori wards under Section 19Z would see them in place for the two triennial elections following the decision. A Council cannot consider the issue of Māori wards for another 6 years after making such a decision.

Up until 2021, if a council did resolve to establish Māori wards, Section 19ZB of the Local Electoral Act 2001 allowed at least 5% of voters within the boundaries of that council, to demand a poll of voters on the council's decision. The results of such a poll were binding on the council. The poll provisions saw 16 Council decisions to establish Māori wards around the country overturned with only one decision being upheld.

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## **2021 Reform of the Local Electoral Act 2001**

Except for the decision to establish Māori wards and the type of voting system a Council adopts, prior to 2021 no other representation arrangement decisions of Councils could be subject to challenge by a binding poll of voters. This legal inequity was considered to be manifestly unfair by Central Government, with the Minister of Local Government at the time noting in a paper to Cabinet that –

The poll provisions are inherently unfair. After 18 years of implementation, they have proved to be an almost insurmountable barrier to councils trying to improve the democratic representation of Māori interests.<sup>1</sup>

The Minister also considered that the polls were divisive and detrimental to the community stating –

Every time a Māori ward poll has been held before, division within and between communities has been exposed and heightened. This is detrimental to overall community wellbeing, but disproportionately affects Māori.<sup>2</sup>

The Cabinet paper proposed the removal of the poll provisions of 19ZB of the Local Electoral Act. Section 19ZB was duly removed from the Local Electoral Act in 2021 and all councils were free to consider whether to establish Māori ward(s) in advance of the 2022 Local Government Elections. That opportunity was open to councils even if they had recently considered whether to establish Māori wards or were outside the ordinary timeframe for making such a decision.

For the 2022 Local Government Elections, 35 councils had Māori wards in place, including 5 of the 8 councils in the Bay of Plenty<sup>3</sup>.

### **Further proposed amendments to the Local Electoral Act 2001 as they relate to Māori representation.**

In addition to the 2021 amendments of the Local Electoral Act 2001, the government is currently considering further changes to the Act<sup>4</sup>, with specific proposals addressing the matter of Māori representation. These changes are largely covered by the proposal to insert sections 19GA and 19GB into the Local Electoral Act 2001 which are outlined in **Appendix One**.

The inclusion of these two sections to the Local Electoral Act 2001, would, if introduced, have two effects. Firstly, 19GA says that councils **must** consider whether to include

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<sup>1</sup> Proactive release of Cabinet material about changes to Processes for Establishing Māori Wards and Māori Constituencies 3 February 2020.

<sup>2</sup> As above.

<sup>3</sup> While Tauranga City Council has resolved to establish a Māori ward, that Council did not have an election in 2022 as it is currently governed by Crown appointed Commissioners.

<sup>4</sup> The bill had its second reading on 4 April 2023 and will next be considered by the Committee of the whole house.

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specific Māori representation if they have not had a Māori ward in the previous two triennial elections and if they have had a Māori ward in the previous two triennial elections, then a council **may** consider specific Māori representation in advance of its next representation review. Currently it is left to a council's discretion whether it considers Māori representation or not. Secondly the amendments would, if enacted, provide the process by which councils must engage with the Community as part of the decision-making requirements of 19GA in line with their general decision-making obligations under subpart 1 of Part 6 of the Local Government Act 2002. The Governance and Administration Committee provided a report on the proposed amendments and in relation to community engagement requirements, made the following comments –

Clause 8 of the bill would insert section 19GA into the Local Electoral Act. New section 19GA would require territorial authorities and regional councils, when making decisions about Māori representation, to engage with Māori and other communities in accordance with Part 6 of the Local Government Act 2002. As introduced, it may not be clear whether local authorities must carry out the special consultative procedure prescribed in section 83 of the Local Government Act. We understand that it is not the intent of this bill to require local authorities to use the special consultative procedure when engaging with communities about Māori representation. In practice, the type of engagement would be dictated by each local authority's Significance and Engagement Policy. Section 76AA of the Local Government Act requires each council to maintain such a policy, setting out how they determine the significance of proposals and decisions, and what level of engagement is appropriate for decisions of different levels of significance.

Our amendment would change the wording in section 19GA(5)(a) from "in accordance with Part 6 of the Local Government Act 2002" to "as part of its consultation under subpart 1 of Part 6". This would make it clear that section 19GA was not dictating which particular consultation method should be used under Part 6.

The proposed amendments reflect the existing decision-making requirements of the Local Government Act 2002 (LGA) and are intended to clarify that the general LGA consultation principles apply to decisions in relation to Māori wards under the LEA rather than introduce new decision making or consultation/engagement requirements. The decision-making process outlined in this report in relation to Council's decision whether to establish Māori ward(s) reflects both the LGA requirements and the intention of proposed new section 19GA 5(a) and(b) as articulated by the Governance and Administration Committee.

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**MĀORI WARDS AND THE WESTERN BAY OF PLENTY DISTRICT COUNCIL**

Since 2011, Council has considered the establishment of Māori wards on two occasions. In 2011, Council resolved not to establish a Māori ward. Six years later in 2017 Council resolved to establish a Māori ward. On both occasions Council’s Tangata Whenua forums had strongly advocated in favour of establishing a Māori ward. The 2017 decision however, was subject to a poll under Section 19ZB, with 40.38% of eligible voters participating in it. Of those who voted in the poll, 78.09% were against Council’s decision.











A Council decision to establish Māori wards for the 2025 Local Government election must be made before 23 November 2023. If Council does decide to establish Māori wards, the specific details of implementing that decision will be decided by Elected Members as part of their remaining considerations through the representation review, which must be completed by 2024.

The Local Electoral Act 2001 provides the formula that sets the number of representatives to be elected to Māori wards. This number is calculated in proportion to the overall number of Councillors, the number of people on the Māori electoral roll and a proportion of the Māori population<sup>5</sup>. For Western Bay of Plenty District Council, Māori make up 17% of our population. If Council decides to establish Māori wards, there will be at least one Māori ward or there could be two (depending on further decisions through the representation review).

Below are some of the potential options on the makeup of Elected Members, should Council decide to establish a Māori ward. These are indicative only and are presented as examples of what implementation may look like, assuming all other ward arrangements and boundaries remain the same. The full representation review will consider these matters in further detail.

Scenario	General Wards			Māori Ward/s	Mayor	Total no. of elected members	+/-10%
	Katikati-Waihi Beach Ward	Kaimai Ward	Maketu-Te Puke Ward				
1 (Current)						12	Yes
2						8	-10.87% for Katikati-Waihi Beach Ward
3						11	-10.87% for Katikati-

<sup>5</sup> Calculated by Statistics New Zealand and available on the Local Government Commission’s website.

							Waihi Beach Ward
4						14	Yes
5						15	-10.87% for Katikati-Waihi Beach Ward

It is important to reiterate that these are merely examples of the potential options and will only be considered further if Council resolves to establish Māori wards.

**OTHER OPTIONS FOR MĀORI REPRESENTATION**

The Local Government Act 2002 provides councils with the ability to appoint a person to a committee or sub-committee of council (even if that person is not an Elected Member) if that person has the skills, attributes, or knowledge that will assist the work of the committee or subcommittee.

Appointments under these provisions of the Local Government Act can be considered by Council at any time. Appointments often fulfil a different role to representative arrangements focusing on bringing relevant skills or knowledge to the position, rather than being an elected representative. Council has already made such a skills-based appointment to its Audit, Risk and Finance Committee.

**SIGNIFICANCE AND ENGAGEMENT**

The Local Government Act 2002 (LGA) requires a formal assessment of the significance of matters and decision in this report against Council’s Significance and Engagement Policy. In making this formal assessment there is no intention to assess the importance of this item to individuals, groups, or agencies within the community.

The Policy requires Council and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions, and activities. In doing so, the Policy says that Council will take into account a number of matters. Those Matters are outlined here together with the considerations taken in respect of each of them –

<b><u>Significance and Engagement Policy</u></b>	
<b>Matters determining significance</b>	<b>Matters determining the significance of a decision to establish a Māori ward</b>
Whether there is a legal requirement to engage with the community and	The power to establish Māori wards is given to Council under section 19Z of the Local Electoral Act 2001 (LEA) and requires only that Council pass a resolution to this

<p>what that requirement is (see policy 4.4 and 4.5).</p>	<p>effect. There are no obligations under the LEA for Council to consult with any person prior to passing such a resolution. There are obligations under the Local Government Act 2002 (LGA) to consider community views and preferences as part of all council decision making and to comply with its Significance and Engagement Policy (SEP). The proposed amendments to the LEA also reflect those LGA requirements. This assessment addresses compliance with Council's SEP.</p>
<p>Whether the proposal or decision affects the level of service of a significant activity.</p> <p>The level of financial consequence of the proposal or decision.</p>	<p>The decision has no impact on levels of service of any activity, nor is there any financial consequence because of it.</p>
<p>Whether the proposal or decision affects a large part of the community, and the extent to which they are affected.</p>	<p>The decision relates to the Māori electoral population within our district which is 7,710 out of a total electoral population of 52,000. Whether a decision affects the community and whether the community are likely to be interested in a matter are different considerations. The views and preferences of the community are addressed below.</p>
<p>The likely impact on future and present interests of the community, recognising Māori cultural values and their relationship to land and water.</p>	<p>A decision to establish Māori Wards would allow those on the Māori electoral roll to vote for a representative on Council. The voting rights of other members of the community would not be affected.</p>
<p>Whether community interest in the proposal or decision is high, and /or there are divided community views.</p>	<p>The previous proposals have shown that there are known divided community views. Based on the previous poll result (which overturned Council's decision to implement Māori wards) it is anticipated that some members of the community will not support the establishment of Māori wards, which is a different position to that expressed to Council by Tangata Whenua representatives in strong</p>

	support of the establishment of Māori wards.
Whether community views are already known from previous engagement processes.	Council already has a good understanding of the spectrum of community views on the establishment of Māori wards through previous processes. Community sentiment is not considered to have changed in a material way since that time. It is considered reasonable for Council to assume that there will be members of the community who do not support establishment of Māori wards, including some Māori. While those views should be taken into account in the decision-making process, they should be given appropriate weight in light of who will be most directly affected by the proposal, which is Māori who wish to have more effective representation on their local authority. The views of those Māori have been strongly expressed through their mandated representatives on the Tangata Whenua forums of the Western Bay of Plenty district.
Whether the decision is reversible.	If a decision is made to establish Māori wards is made, that decision can be reconsidered in 2029.

For these reasons, the decision is considered to be of medium significance under Council's Significance and Engagement policy.

As well as the consideration of its Significance and Engagement Policy, Council must take into account any applicable principles of the Local Electoral Act 2001. The most relevant to this issue is s4(1)(aa) regarding fair and effective representation for individuals and communities mentioned at the beginning of the report. Council must consider whether establishing Māori wards will better enable fair and effective representation for Māori.



**ENGAGEMENT, CONSULTATION AND COMMUNICATION**

<b>Interested/Affected Parties</b>	<b>Completed Consultation</b>	
Tangata Whenua	Te Kāhui Mana Whenua o Tauranga Moana, Te Ihu o te Waka o Te Arawa have both advocated for the establishment of Māori wards and have included aspirations for greater Māori representation in their respective work programmes.	Completed
General Public	<p>Consideration of Māori wards in our district has historically resulted in opposed views and it is unlikely that further community engagement would provide Council with a materially different understanding of community views and preferences towards Māori wards.</p> <p>The poll to establish a Māori ward in 2017 saw 40.38% of eligible voters participate, with 78.09% voting against the establishment of a Māori ward. This provides a good indication of likely public sentiment.</p>	

There will be a public engagement process with the community during the Representation Review proper scheduled for 2024 to consider Council’s wider representation arrangements.

**ISSUES AND OPTIONS ASSESSMENT**

<p><b>Option A</b> Council establishes Māori Wards for the next two triennial elections in 2025 and 2028.</p>	
<p><b>Assessment of advantages and disadvantages including impact on each of the four well-beings</b></p> <ul style="list-style-type: none"> <li>• <b>Economic</b></li> <li>• <b>Social</b></li> <li>• <b>Cultural</b></li> <li>• <b>Environmental</b></li> </ul>	<p><b>Advantages</b></p> <p>Enhancing authentic Te Tiriti based relationships.</p> <p>Council must take into account the applicable principles of the Local Electoral Act 2001. The principles set out the intent of the Act to implement representative and substantial electoral participation in local</p>

	<p>elections and polls as well as fair and effective representative for individuals and communities. It is considered that the establishment of a Māori ward would support these principles by enabling more effective representation for Māori.</p> <p><b>Disadvantages</b></p> <p>Is unlikely to align with the views and preferences of some of the community.</p>
<b>Costs (including present and future costs, direct, indirect and contingent costs).</b>	Not applicable.
<b>Other implications and any assumptions that relate to this option</b>	The decision will add to the consideration of representation arrangements as part of completing the representation review in 2024.
<p><b>Option B</b></p> <p>Council does not establish Māori Wards for the next two triennial elections in 2025 and 2028.</p>	
<p><b>Assessment of advantages and disadvantages including impact on each of the four well-beings</b></p> <ul style="list-style-type: none"> <li>• <b>Economic</b></li> <li>• <b>Social</b></li> <li>• <b>Cultural</b></li> <li>• <b>Environmental</b></li> </ul>	<p><b>Advantages</b></p> <p>Aligns with the views and preferences of some of the community.</p> <p><b>Disadvantages</b></p> <p>Does not enhance authentic Te Tiriti based relationships as expressed by Tangata Whenua.</p> <p>Misses an opportunity to better provide for fair and effective representation for Māori.</p>
<b>Costs (including present and future costs, direct, indirect and contingent costs).</b>	Not applicable
<b>Other implications and any assumptions that relate to this option</b>	If Council decides not to establish Māori wards it is recommended that Council provides an explanation for its position at the meetings of Te Kāhui Mana Whenua o Tauranga Moana and Te Ihu o Te Waka o Te Arawa.

### STATUTORY COMPLIANCE

The recommendation(s) meets:

- Legislative requirements/legal requirements including the Local Government Act 2002 and the Local Electoral Act 2001.
- Current council plans/policies/bylaws including Te Kāhui Mana Whenu o Tauranga Moana, Te Ihu o te Waka o Te Arawa work programmes and Council's Community Outcomes and Strategic Priorities.
- Regional/national policies/plans.

### FUNDING/BUDGET IMPLICATIONS

None

### ATTACHMENTS

**1. Appendix One - Proposed amendments to section 19 of the Local Electoral Act 2001**



19GA Review of specific Māori representation for elections of territorial authorities and regional councils

- (1) Subsection (2) applies if, for the previous 2 triennial general elections, the district of a territorial authority or the region of a regional council was not divided into 1 or more Māori wards or Māori constituencies for electoral purposes.
- (2) The territorial authority or regional council must, before making a determination under section 19H or 19I, determine by resolution whether the representation arrangements for the territorial authority or the regional council should include specific Māori representation.
- (3) Subsection (4) applies if, for the previous 2 triennial general elections, the district of a territorial authority or the region of a regional council was divided into 1 or more Māori wards or Māori constituencies for electoral purposes.
- (4) The territorial authority or regional council may, before making a determination under section 19H or 19I, determine by resolution whether the representation arrangements for the territorial authority or regional council should include specific Māori representation.
- (5) Before making a determination under subsection (2) or (4), the territorial authority or regional council must—
  - (a) engage with Māori and other communities (as the term communities is used in Part 6 of the Local Government Act 2002) in the district or region as part of its consultation under subpart 1 of Part 6 of the Local Government Act 2002 in relation to the determination; and
  - (b) have regard to their views on whether the representation arrangements for the territorial authority or regional council should include specific Māori representation.
- (1) Any determination under subsection (2) or (4) must be made by the territorial authority or regional council no later than 20 December of the year that is 2 years before the next triennial general election.
- (2) The territorial authority or regional council must, within 14 days after making a resolution under this section, give public notice of the resolution.

- (3) This section does not apply to a territorial authority or a regional council if another enactment requires that the district or region be divided into 1 or more Māori wards or Māori constituencies.

19GB Effect of resolution relating to specific Māori representation

- (1AA) Subsection (1) applies if, before a territorial authority or regional council makes a determination under section 19H or 19I (a representation arrangements determination),—

- (a) it determines under section 19GA(2) or (4) that its representation arrangements should include specific Māori representation; or
- (b) it does not make a determination under section 19GA(2) or (4) but its existing representation arrangements include specific Māori representation.

- (1) The representation arrangements determination must include,—

- (a) in the case of a territorial authority, a proposal to divide (or to continue to divide) the district of the authority into 1 or more Māori wards and 1 or more general wards; and
- (b) in the case of a regional council, a proposal to divide (or to continue to divide) the region of the council into 1 or more Māori constituencies and 1 or more general constituencies; and
- (c) a proposed number of members of the territorial authority or regional council that is not less than the number required to ensure that the number of Māori ward members or Māori constituency members calculated under clause 2 or 4 of Schedule 1A is 1 or more.

- (1A) Subsection (2) applies if, before a territorial authority or regional council makes a representation determination,—

- (a) it determines under section 19GA(2) or (4) that its representation arrangements should not include specific Māori representation; or
- (b) it does not make a determination under section 19GA(2) or (4) but its existing representation arrangements do not include specific Māori representation.

- (2) The representation arrangements determination must not include a proposal to divide (or to continue to divide) the

district or region into 1 or more Māori wards or Māori constituencies.

- (3) This section is subject to any other enactment requiring a district or region to be divided into 1 or more Māori wards or Māori constituencies.

**10 INFORMATION FOR RECEIPT**

**11 RESOLUTION TO EXCLUDE THE PUBLIC**

Nil