

**MĀORI WARDS AND REPRESENTATION ARRANGEMENTS
REPORT**

Purpose of Report

To clarify the purpose and implications of recent amendments to the Local Electoral Act 2001 regarding the establishment of Māori wards and to inform Council about the proposed approach to community engagement ahead of the representation review to take effect for the 2025 local elections.

Recommendations

Officers recommend that the Council:

1. *Receive the Māori Wards and Representation Arrangements Report.*
2. *Note the information provided on recent amendments to the Local Electoral Act 2001 regarding the establishment of Māori wards.*
3. *Provide feedback on the proposed approach to community engagement ahead of a representation review for the 2025 local elections.*

1. Executive Summary

On 22 July 2020, officers reported to Council about electoral and representation arrangements and the timetable for decision-making regarding changes to the electoral system and Māori representation in order to take effect for the 2022 local elections.

At the time, Council was advised that it had the option of passing a resolution by 23 November 2020 on whether or not to establish a Māori ward and that the decision would be subject to the outcome of a binding public poll if demanded by five percent of electors. Council was also advised that if a Māori ward was to be established for the 2022 triennial elections, a full representation review would need to be carried out.

Council considered that trying to alter Māori representation within the proposed timeframes was not possible and that a longer lead time for appropriate research and engagement was needed before the next representation review. Council therefore resolved that a representation review would not be undertaken prior to the 2022

elections. As a representation review must be carried out every six years this means the next review would be due to take effect for the 2025 elections.

On 1 March 2021, a Bill to amend the Local Electoral Act 2001 (LEA) to align the treatment of Māori wards with the treatment of general wards received Royal Assent. This removed all mechanisms for binding polls to be held on the establishment of Māori wards, and provided local authorities with an opportunity to make decisions on Māori wards by Friday 21 May 2021 for the 2022 local elections.

Local iwi requested Council take advantage of the legislative changes for the 2022 local elections. However, while the changes to legislation now make the establishment of Māori wards easier, significant groundwork is still required for Council to understand what it would mean to introduce Māori wards and the views of the whole community. A proposed approach and timeline for community engagement is presented for consideration by Council as part of a fully informed review prior to the 2025 elections.

2. Legal Framework to Establish Māori Wards

Under the Local Electoral Act 2001, local authorities decide their own representation arrangements, including whether to establish Māori and/or general wards and constituencies. A Māori ward establishes an area where only Māori registered on the Māori Parliamentary electoral roll vote for the candidates in that Māori ward. A Māori ward would sit alongside the general wards of the district such as a single general ward or a number of wards, such as the Greytown, Featherston and Martinborough wards.

Māori wards are one way for Māori to participate in Council's governance and decision-making as a Māori ward councillor would represent the Māori voice at the Council table. A mix of mechanisms are often adopted by councils to strengthen partnerships and provide for Māori representation.

2.1 Local Electoral Act 2001 provisions prior to 1 March 2021

Prior to legislative changes made earlier this year, the LEA enabled local authorities to establish Māori wards by resolution or a favourable poll of electors. A resolution to establish a Māori ward or to hold a poll had to be passed by 23 November two years before the year of the election when the resolution would take effect. For example, by 23 November 2020 to take effect in the October 2022 election. If Council resolved to establish a Māori ward, voters could demand that a poll be held. If a valid demand in writing signed by 5% of electors was received by 21 February, the council was required to hold a binding poll. Note that there was no similar ability for electors to demand a poll if Council resolved to establish a general ward through a representation review.

Council was also able to choose to initiate a poll itself. Any poll had to be completed by 21 May one year before the election year and the poll about whether to establish Māori wards was binding for two election cycles after the poll. A decision to establish a Māori ward triggers a full representation review and this was to be carried out and completed

by 31 August one year before the election year. A representation review includes consideration of:

- the proposed total number of members of the local authority
- whether:
 - all members are to be elected from either Māori or general wards, or
 - some members are to be elected from either Māori or general wards, and some are to be elected at large
- the proposed number of members to be elected from the Māori wards and the number from the general wards
- the proposed name and boundaries of each ward
- the proposed number of members to be elected from each Māori and general ward.

2.2 Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2021

It has been widely recognised that the legislative ability to demand a binding poll has been a significant barrier for local authorities in establishing Māori wards. Twenty-four councils had previously attempted to establish Māori wards or constituencies but only two had been successful.¹

On 5 February 2021, the Minister of Local Government introduced a bill “to align the treatment of Māori wards and constituencies with the treatment of general wards and constituencies, remove all mechanisms for binding polls to be held on the establishment of Māori wards and constituencies, and provide local authorities with an opportunity to make decisions on Māori wards and constituencies in time for the 2022 local elections”.² The bill proceeded through the house under urgency in order that nine councils who were due to hold a poll would not have to bear the costs of holding the poll.³ The bill received Royal Assent on 1 March 2021.

The Local Electoral (Māori Wards and Māori Constituencies) Amendment Act made the following changes:

- repealed the provisions in the LEA that relate to binding polls to be conducted on the establishment of Māori wards and constituencies;
- prohibits binding council-initiated polls on whether to establish Māori wards or constituencies (while retaining ability of councils to initiate non-binding polls to gauge public sentiment)
- established a transition period ending on 21 May 2021 during which any council may, regardless of any previous decisions or previous poll outcomes, resolve to establish Māori wards or constituencies for the 2022 local elections.

¹ Waikato Regional Council and Wairoa District Council. The Bay of Plenty Regional Council has Māori wards set up via legislation: see the First Reading of the Bill on 9 February 2021 in Hansard available at www.parliament.nz.

² See the First Reading of the Bill on 9 February 2021 in Hansard available at www.parliament.nz.

³ See the First Reading of the Bill on 9 February 2021 in Hansard available at www.parliament.nz.

The changes to the LEA placed no obligation on councils to reconsider establishing Māori wards or constituencies during the transition period. Rather, it provided a narrow opportunity to have another look at the issue of Māori wards where polls had previously been a barrier.

2.3 Decision-making requirements under the Local Government Act 2002

There are a number of provisions in the Local Government Act 2002 (LGA) that are relevant to decisions to establish Māori wards. The following are specific to Māori participation in Council decision-making:

- Section 4 provides for principles and requirements for local authorities that are intended to facilitate participation by Māori in local authority decision-making processes;
- Section 14(1) provides for a number of principles for local authorities to follow including at (d) that opportunities should be provided for Māori to contribute to decision-making processes; and
- Section 81 requires local authorities to establish and maintain processes to provide opportunities for Māori to contribute to decision-making processes of the local authority, consider ways in which it may foster the development of Māori capacity to contribute to the decision-making processes of the local authority, and provide relevant information to Māori for these purposes.

In addition, every decision made by a local authority must be made in accordance with the general decision-making and consultation provisions of the LGA in sections 76AA to 82. These include provisions relating to:

- the identification and assessment of options in terms of their advantages and disadvantages;
- giving consideration to the views and preferences of persons likely to be affected by, or have an interest in a matter; and
- principles of consultation that enable the community to be informed about a particular matter, to have reasonable opportunity to present their views and to have their views considered when Council makes a decision.

Council ensures that it meets these obligations via its Significance and Engagement Policy. In general, the extent of engagement and consultation with the community should be in proportion to the significance of the decision.

A decision to establish Māori wards is highly significant in terms of the impact on Māori and electoral representation arrangements. In addition, the decision would have reasonable longevity; the community would not be able to change the decision once made through the representation review and there would be no further opportunity to input into the matter for at least two election cycles. Māori are the most affected by a

decision to establish Māori wards and there is likely to be high community interest and a range of community views on the matter.

2.4 Previous Council consideration to establish Māori wards

Council considered the issue of Māori representation during the representation review conducted in 2012. Council resolved on 4 April 2012 that there be no separate electoral representation for Māori.

Council also considered the issue during the representation review conducted in 2018. The report to the 24 October 2018 Council meeting and hearing on the review noted that recommendations from the community boards and Māori Standing Committee supported the status quo. In addition, the Council at its workshops during the representation review agreed that more research should be done on separate electoral representation for Māori for further consideration prior to the next representation review. The Council resolved to hold a full representation review prior to the 2022 local elections in response to issues raised by some submitters about ward boundaries.

Officers reported to Council on 22 July 2020 on the timetable for decision-making for changes to the electoral system and Māori representation, and for the proposed representation review for the 2022 elections. Officers noted that no further research or consultation had been undertaken on establishing Māori wards since the 2018 decision and that there had been no demand for a poll. Officers requested Council consider whether to seek further information and opportunity for discussion prior to the deadlines for decision-making for the 2022 elections.

Council noted that insufficient research on establishing a Māori ward and engagement with Māori and the wider community had been undertaken prior to the 2018 representation review. For these reasons it had decided against establishing Māori wards for the 2019 elections and requested further research be undertaken ahead of a future representation review.

Council acknowledged that it had more work to do to strengthen the partnership with iwi, hapū and marae and discussed opportunities to do so and support Māori representation and contribution to decision-making through the Māori Standing Committee.

Council also discussed the timeframe for decision-making (four months for Māori wards) and the impact this decision and a subsequent representation review would have, particularly on the capacity of officers, elected members and the Māori Standing Committee, acknowledging that it was also a Long Term Plan year.⁴

⁴ The Local Government Commission *Guidelines for local authorities undertaking representation reviews* notes at 2.10 to 2.11 that “In the past some local authorities have worked close to the statutory

Council minutes note at C3:

There was agreement that trying to alter Māori representation within the proposed timeframes was not possible and that a long lead time for appropriate engagement was needed before the next representation review.

Council subsequently resolved not to undertake a representation review, including that Māori wards would not be established for the 2022 elections.

2.5 Impact of the changes to the LEA on Council's July 2020 decision

Thirty-two councils have taken the opportunity provided by the changes to the LEA to establish Māori wards for the 2022 elections. However, these changes did not impact Council's July 2020 decision for a number of reasons.

As discussed in paragraph 2.2 above, the changes to the LEA provided a short transition period for councils to consider establishing Māori wards where polls had previously been a barrier. However, the ability to demand a poll under the previous LEA provisions had no bearing on Council's decision in July 2020 not to establish Māori wards. Rather, Council considered it was not ready to progress Māori wards for the 2022 elections because it had not undertaken the necessary research or engagement. Council's focus has been on supporting the Māori Standing Committee and it has since assisted the Committee in developing its terms of reference and strategic planning. Council has also consulted with the district's Māori community to better understand their aspirations and how Council can build effective partnerships through its strategic direction and funding in the Spatial and Long Term Plans.

In addition, the changes to the LEA and subsequent transition period had not amended the requirements of the LGA with respect to decision-making and consultation. Council had considered in July 2020 that four months was insufficient time to undertake research and appropriate engagement prior to making a decision. The transition arrangements afforded less than three months to do so. Officers had not carried out further research since July given Council's decision to defer the matter for three more years.

On 19 May 2021, Council received a letter from Rangitāne o Wairarapa, Rangitāne Tū Mai Rā, Kahungunu ki Wairarapa and Kahungunu ki Wairarapa – Tamaki Nui a Rua Settlement Trust expressing concern about Council's inability to prioritise Māori wards and of Council's inadequate engagement with tangata whenua outside of the Māori Standing Committee (see Appendix 1). Wairarapa Iwi requested a response prior to the deadline on 21 May and participants of a hikoi to Council offices on 20 May requested

deadlines. In doing so they limited their ability to deal with any unexpected issues that may have arisen, and potentially created problems for themselves later in the process. The Commission encourages all local authorities to get the planning for their reviews underway as early in the relevant triennium as possible...".

Council make the decision to establish Māori wards prior to the deadline. The Mayor's response to Iwi is included at Appendix 2. Until this time, officers were not aware that there was support to revisit the July 2020 decision for the 2022 elections.

As noted above, the decision to establish Māori wards is highly significant and of high interest for Māori and the wider community. It was not possible to progress Council's position on this important matter prior to the extended deadline. Making a decision to establish Māori wards without informing the community of the issues, opportunities and challenges and without understanding the views of all Māori and non-Māori in the community would not promote public understanding or confidence in local democratic and electoral arrangements. It would also have been inconsistent with the requirements of the LGA and community expectations and potentially expose Council to legal and reputational risk.

3. Considerations for Establishing Māori Wards for the 2025 Elections

While the detailed representation arrangements would need to be worked through in a representation review should Council resolve to establish Māori wards, the number of members to be elected is prescribed under the LEA by a mathematical formula. This is based on the Māori and General Electoral populations of the district and the proposed number of members of the territorial authority (other than the mayor).

The formula is set out in clause 2 of Schedule 1A of the LEA:

$$nmm = \frac{mepd}{(mepd + gepd)} \times nm$$

Where –

nmm = the number of Māori ward members

mepd = the Māori electoral population of the district

gepd = the general electoral population of the district

nm = the proposed number of members of the territorial authority (other than the mayor).

The Māori or General Electoral population is not the same as the number of people enrolled to vote in the district. Section 3 of the Electoral Act 1993 contains definitions for the Māori and General Electoral populations which are summarised as follows:

- **General Electoral Population** – the total ordinarily resident population at the last census less the Māori electoral population
- **Māori Electoral Population** – a calculation based on the number of electors on the Māori electoral roll and proportions of those of Māori descent not registered and those under 18 years of age.

As at 2020, the Māori electoral population for South Wairarapa District was 850⁵ which represents 7.5% of the total district electoral population.

Based on current population numbers and the assumption that the total membership of Council would remain unchanged at 9 members (excluding the Mayor), one member could be elected for the South Wairarapa District based on rounding the formula figure of 0.67 to the nearest whole number.⁶

Māori Electoral Population	General electoral population	Total electoral population	Total members (excluding the Mayor)	Māori Ward members
850	10,550	11,400	9	0.67

Based on this formula, SWDC is required to have a minimum of seven councillors under current electoral population numbers to have one Māori ward councillor. This is higher than the legislative requirement set out in section 19A of the LEA for a Council to have between 5 and 29 members (excluding the Mayor).

To reach two Māori ward councillors, SWDC would need 21 councillors under current population numbers.

4. Principles for Representation Arrangements

The LEA sets out a number of principles for electoral/representation arrangements:

- Reasonable and equal opportunity for any qualifying person to vote in, nominate a candidate for, or be nominated as a candidate in any local election.
- Fair and effective representation for individuals and communities.
- Public confidence in and understanding of the electoral/representation system.

4.1 Reasonable and equal opportunity

Under section 25 of the LEA, any person enrolled as a parliamentary elector may be a candidate for an election. This means candidates for a Māori ward can be non-Māori and/or not on the Māori electoral roll.

Section 26 of the LEA provides that in order for a candidate to stand in an election they must be nominated by two or more electors of the ward in which the candidate is to stand. That means nominations for candidates standing in a Māori ward must be made by electors on the Māori roll, which is the same as for the General ward whereby

⁵ Obtained from: <http://www.lgc.govt.nz/assets/Representation-Reviews/MEP-and-GEP-statistics-2020-estimates.xls>. The 2020 estimates are provided by Statistics NZ and based on the 2018 census data.

⁶ Obtained from: <http://www.lgc.govt.nz/assets/Representation-Reviews/MEP-and-GEP-statistics-2020-estimates.xls>

nominators must be on the General Electoral roll for the electoral area they are nominating a candidate for. A Māori ward candidate does not need to be affiliated with an iwi within the district or be a Māori elector.

Only electors of the Māori ward may vote for candidates standing for election to a Māori ward. The enrolment statistics for the South Wairarapa District as at 30 April 2021 from the Electoral Commission are below.⁷ While these numbers fluctuate, they give an indication of how many people could potentially vote for a Māori ward candidate should a Māori ward be established. Enrolments on the Māori Roll make up 5% of the total enrolments for the district.

Enrolments for South Wairarapa District	Electoral Rolls	Enrolments
Greytown Ward	General Roll	3,113
	Māori Roll	90
Featherston Ward	General Roll	2,471
	Māori Roll	166
Martinborough Ward	General Roll	2,958
	Māori Roll	178
South Wairarapa District	General	8,976
	Māori roll	434

4.2 Effective representation of communities of interest

Based on current population composition and membership of Council, one Māori ward could be established. This ward would need to cover the whole South Wairarapa district as there is no ability within the legislation to provide ward representation for Māori that reflects the makeup of the marae, hapū or iwi in the district. Any councillor elected to represent a Māori ward would therefore need to be representative of all Māori as a distinct community of interest and act in the best interests of the whole district.

Any decision to establish a Māori ward should therefore take into consideration whether establishing a Māori ward is an effective way to provide for Māori representation in the district, particularly in the context of the role of the Council's Māori Standing Committee.

The Māori Standing Committee is made up of representatives from each of the three South Wairarapa Marae and Pae tū Mōkai o Tauira, and one representative from each of the two Wairarapa Iwi. The Committee advocates on behalf of and in the best interests of Māori in the district including the descendants of Ngāti Kahungunu ki Wairarapa and Rangitāne o Wairarapa.

⁷ Obtained from: <https://elections.nz/stats-and-research/enrolment-statistics/>

4.3 Fair representation of electors

In order to achieve fair representation of electors, each Councillor should represent a similar number of people within each ward, within +/-10 percent. The below table shows the current representation structure for SWDC, as set by the 2018 representation review, which is compliant with the +/-10% representation rule.

	Population	Number of councillors	Population per member	% Difference from quota
Greytown Ward	3,880	3	1,293	2.0%
Featherston Ward	3,530	3	1,177	-7.2%
Martinborough Ward	4,000	3	1,333	5.2%
South Wairarapa District	11,410	9	1,268	

While the +/- 10% rule would apply between Māori wards (if there was more than one) and between General wards (if there is more than one), it does not apply across Māori and General wards.

While the rule does not apply across Māori and General wards, Council should still consider the balance of representation among electors if a Māori ward was to be introduced. Any imbalance in representation of electors could be addressed by increasing the number of councillors.

Council should also consider whether there would be any impact on the balance of fairness among general wards with the addition of a Māori ward. If compliance with the +/- 10% rule is not maintained referral to the local Government Commission for a formal determination is required.

4.4 Public confidence and understanding

Public confidence and understanding of the electoral/representation system is achieved through engagement with the community generally and through the conduct of a representation review. As detailed in paragraph 2.4 above, Council considered the issue of Māori representation during the representation reviews conducted in 2012 and 2018.

5. Reviewing Representation Arrangements

Local authorities are required to review their representation arrangements at least once every six years and have the option of a review every three years. As the Council last completed a representation review in 2018, the next review is due for the 2025 elections.

This will involve consideration of:

- The number of Council elected members
- Whether the members are to be elected by wards, at large or a combination
- The boundaries and names of those wards and the number of members that will represent each ward
- Whether or not to have separate wards for the electors on the Māori roll
- Whether community boards should be established or retained and if so, the number of members (elected and appointed).

The legislative timeframes ensure the process for considering Māori wards follows the choice of electoral system, as the choice of electoral system may influence a decision on the establishment of Māori wards, but precedes a representation review.

To take effect for the 2025 elections, Council needs to resolve no later than 12 September 2023 to change the electoral system and by 23 November 2023 to establish Māori wards for the 2025 elections. Once a council resolves to establish a Māori Ward the decision remains in place for two election cycles and it is not reversible through the representation review that would follow.

The below tables sets out the proposed approach and timeline for engaging with the community ahead of when a Council decision is required on the establishment of Māori wards in 2023.

Engagement	Potential engagement activity	Proposed Timing
Engagement with Māori Standing Committee	Workshops	July – December 2021
Engagement with iwi, marae and hapū	Hui	January – June 2022
Engagement with Community Boards	Workshops	January – June 2022
Campaign to educate community on Māori wards	Public meetings	July – December 2022
Gauge community views on Māori wards	Non-binding poll or survey	January – July 2023

6. Financial Considerations

The financial implications for carrying out engagement will depend on Council's desired approach and will be met through the Council's Representation Review budget. There are no other financial considerations associated with this report.

7. Legal and Policy Implications

The relevant LEA provisions are detailed in the report above. Any engagement and decision-making should comply with the requirements of Council's Significance and Engagement Policy and the LGA.

8. Conclusion

Council should consider the information provided and provide feedback on the proposed approach for engaging with the community on the establishment of Māori wards ahead of the representation review to take effect for the 2025 elections.

9. Appendices

Appendix 1 – Correspondence from Rangitāne o Wairarapa, Rangitāne Tū Mai Rā, Kahungunu ki Wairarapa, Kahungunu ki Wairarapa – Tamaki Nui a Rua Settlement Trust

Appendix 2 – Mayor's open letter in response to local iwi

Contact officer: Karen Yates, Policy and Governance Manager
Reviewed by: Harry Wilson, Chief Executive Officer

**Appendix 1 – Correspondence from
Rangitāne o Wairarapa, Rangitāne
Tū Mai Rā, Kahungunu ki Wairarapa,
Kahungunu ki Wairarapa – Tamaki
Nui a Rua Settlement Trust**

19 May 2021

To the Mayor of South Wairarapa District Council

As you will be aware there were changes made to the Local Electoral Act 2001 which created a new process for establishing Māori Wards for councils. There must be a decision made local councils by 21st May 2021 to meet the 2022 electoral process.

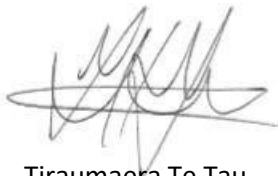
As raised numerous times we are massively concerned at South Wairarapa District Council's inability to prioritise Māori wards.

The key issues we believe that South Wairarapa District Council (SWDC) have failed to deliver on is:

- Inability to engage in the research to establish a Maori ward (through the Maori Electoral Roll);
- Inadequately engaging with tangata whenua (whānau, hapū and iwi) for feedback outside of the SWDC Māori Standing Committee;
- The inability for the SWDC Māori Standing Committee to highlight and bring forward the establishment of Māori wards as a topic of discussion;
- The continued and deliberate delaying of a Council decision on establishing Māori wards for the 2022 local government elections.

We are asking for an immediate response prior to Friday 21st of May 2021 as to how you will be addressing this.

Ngā mihi nui,



Tiraumaera Te Tau
Chair of Rangitāne o Wairarapa



Sonya Rimene & Lewis Karaitiana
Co-Chair of Rangitāne Tū Mai Rā



Hera Edwards
Chair of Kahungunu ki Wairarapa



Robin Potangaroa
Chair of Kahungunu ki Wairarapa – Tamaki Nui a
Rua Settlement Trust



Appendix 2 – Mayor’s open letter in response to local iwi



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21 May 2021

Tēnā koutou

Open letter in response to local iwi on the establishment of Māori wards

Thank you for your letter of the 19 May requesting Council make a decision on the establishment of Māori wards by 21 May. I respect your views, and praise the passion shown by those who participated in the hiko yesterday. We hear you, and we are listening.

On a personal level, I also strongly support the concept of Māori wards, as I know other councillors do.

Council decided against the establishment of Māori wards for the 2022 elections after careful consideration. We felt that a long lead time was needed to engage with our Māori and broader community before we could make such an important decision. We recognised there was much work to do to build our partnership with whānau, hapū and iwi. We have also spent the time focusing our efforts in supporting the Māori Standing Committee to advocate for the interests of our Māori community and provide a representative Māori voice to Council. We propose to build on these efforts in our Long Term Plan by allocating specific resource to enhance Māori liaison and will work with the Māori Standing Committee on how this can best meet our community's needs.

Thank you for making your views on the establishment of Māori wards clear to us. However, we do not have an understanding of what our wider community think. We need to educate and engage the whole community on what it would mean to introduce Māori wards in our district and the benefits representation on Council would bring. This all takes time, and we will be looking at doing this as soon as we can.

Unfortunately, it was simply not possible for us, given where we are on the journey, to engage meaningfully with our community in the short timeframe from March 2021, when Government transitional arrangements came into effect, and 21 May, the deadline for having the wards for the 2022 local election. Other councils are much further along their journey and the opportunity presented by the amendments to the Local Electoral Act 2001 have been taken up by those ready to do so. We look forward to working towards this goal for the 2025 elections.

We are committed to working with whānau, hapū and iwi and the wider community on the establishment of Māori wards and a report on this, with a proposed timeline, will be presented at the next Council meeting on the 2 June.

Given the public interest in this matter, we will be providing this letter to the media and publishing it on our website.

Ngā mihi

A handwritten signature in black ink, appearing to read 'Alex Beijen' with a horizontal line extending to the right.

Alex Beijen
Mayor