

Item not on the Operations Environment & Communities Committee Agenda

18 April 2024

THAT the Operations Environment & Communities Committee:

1. Considers the following report at its meeting on 18 April 2024 under Standing Order 9.12 Items of business not on the agenda which cannot be delayed:

24-117 Confirmation of Support for Iwi Priorities

2. **It is recommended that the report be accepted as a late item.**
 - a) The item was unable to be added to the agenda as it was under another meeting.
 - b) Discussion of the item cannot be delayed until a subsequent meeting as we have stated publicly it will be considered at the 18 April 2024 Operations meeting.



Heather Kohn
Democracy & Support Services Manager



Title: 24-117 Confirmation of Support for Iwi priorities
Section: Chief Executive's Office
Prepared by: Jade Lister-Baty - Principal Advisor to Chief Executive
Meeting Date: Thursday 18 April 2024

Legal: No

Financial: No

Significance: N/A

Report to OPERATIONS - ENVIRONMENT & COMMUNITIES/NGĀ WHAKAMAHI - TE TAI AO ME NGĀ HAPORI Committee for decision

PURPOSE - TE TAKE

The purpose of this report is to formalise a resolution of the support agreed in principle by Council on 21 February 2024 with regard to iwi priorities concerning policy commitments outlined by the Coalition Government in 2023.

SUMMARY – HE WHAKARĀPOPOTOTANGA

At a meeting of Iwi and Council leadership on 8 February 2024, Iwi tabled concerns raised by the National Iwi Charis Forum with respect to policy commitments agreed by the new Coalition Government. Iwi sought agreement with Council on three priorities of relevance to local government.

The Mayor and Elected members met on 21 February 2024 following Council's Finance & Performance Committee and agreed in principle to endorse support of:

- The retention of Māori Wards.
- Fast track consenting that supports iwi housing and water storage projects – while also ensuring that the Fast Track regime being without prejudice to the provisions in Treaty of Waitangi and Rohe Moana settlements in Turanga/Tairāwhiti.
- The retention of Te Mana o te Wai.

This report seeks to formalise the agreement of Council's support which ensures there is a clear joint position in our approach to emerging direction from the new Government.

The decisions or matters in this report are considered to be of N/A significance in accordance with the Council's Significance and Engagement Policy.

RECOMMENDATIONS - NGĀ TŪTOHUNGA

That the Operations - Environment & Communities/Ngā Whakamahi - Te Taiao me Ngā Hapori Committee:

1. Notes that the Council has resolved to support the retention of Te Mana o Te Wai.
2. Recommends that Council supports the following priorities:
 - a. The retention of Māori Wards.
 - b. Fast track consenting that supports iwi housing and water storage projects – while also ensuring that the Fast Track regime being without prejudice to the provisions in Treaty of Waitangi and Rohe Moana settlements in Turanga/Tairāwhiti.

Authorised by:

Nedine Thatcher Swann - Chief Executive

Keywords: list of keywords,

BACKGROUND - HE WHAKAMĀRAMA

1. At a meeting of Iwi Chairs and Chief Executives and the Mayor and Council Chief Executive on 8 February 2024, Iwi tabled concerns raised by the National Iwi Chairs Forum with respect to the Coalition Government's policy commitments agreed in November 2023.
2. Iwi sought Gisborne District Council's support of three points of relevance to local government:
 - The retention of Māori Wards.
 - Fast track consenting that supports iwi housing and water storage projects – while also ensuring that the Fast Track regime being without prejudice to the provisions in Treaty of Waitangi and Rohe Moana settlements in Tūranga/Tairāwhiti.
 - The retention of Te Mana o te Wai.
3. The Mayor and Elected Members met on 21 February 2024 following Council's Finance & Performance Committee and agreed in principle to endorse these priorities. The Mayor advised iwi chairs of the Council's commitment in principle on 22 February 2024.
4. Formalising the agreement of support ensures there is a clear joint position in the approach between Council and iwi partners to emerging direction from the new Government.

DISCUSSION and OPTIONS - WHAKAWHITINGA KŌRERO me ngā KŌWHIRINGA

Support for the retention of Māori Wards

5. In November 2020, in a unanimous decision, Council resolved to establish one or more Māori wards for the Gisborne District 2022 and 2025 triennial elections.
6. Following a comprehensive [representation review](#) to develop a proposal of representation arrangements, Council undertook extensive community consultation, attracting a record number of submissions. This engagement demonstrated widespread community support.
7. Council adopted the proposed representation arrangement in November 2021. As required by law, Council publicly notified its decision and provided an opportunity for electors to demand a referendum on the introduction of Māori Wards. No such demand was received.
8. Determination of the proposal was made by the [Local Government Commission](#) on 7 April 2022 which saw the establishment of two wards - a district wide Māori Ward with five elected members, and a district wide General Ward with eight elected members. The Mayor continued to be elected at large.
9. Māori constitute half of our population, yet historically have been underrepresented in Council decisions. The establishment of Māori Wards seeks to rectify a longstanding imbalance, increases the avenues for Māori participation in decision-making, and also signifies Council's commitment to exploring further avenues for Māori engagement in local governance.

10. Within its coalition agreement in November 2023 Government announced new policy which states it intends to “Restore the right to local referendum on the establishment or ongoing use of Māori wards, including requiring a referendum on any wards established without referendum at the next local body elections.”
11. At the meeting of Zone 3 councils in March 2024, Gisborne District Council and elected members supported a remit **[ATTACHMENT 1 – Zone 3 LGNZ Remit March 2024]** to Local Government New Zealand to lobby against legislative changes to ensure that Māori wards and constituencies are treated the same as all other wards in that they should not be subject to a referendum.
12. On 4 April 2024 the Minister for Local Government provided an update **[ATTACHMENT 2 – MoLG letter to councils with established Māori Wards APRIL 2024]** to affected councils outlining Government's intention to introduce a Bill to restore binding polls on the establishment of Māori Wards.
13. The proposal outlines that any local authority who established Māori wards or have resolved to establish Māori wards will have the option to disestablish those wards or reverse their decision prior to the 2025 local elections.
14. The Government also announced that local authorities will be required to hold a binding poll at the 2025 local elections if they established Māori wards without holding a poll. The result of the poll will take effect from the 2028 local elections.
15. At the time of writing this report staff are seeking independent advice on the fairness of the proposal as it applies to the process we have undertaken. Staff will update Council when further information is at hand.

Support for Fast track consenting that supports iwi housing and water storage projects

16. The Fast-Track Approvals Bill (the Bill) was introduced to Parliament on 7 March 2024. The Bill's introduction was part of the Government's coalition agreement and 100-day plan.
17. The Bill aims to enable a fast-track decision-making process for infrastructure and development projects that are considered to have significant regional or national benefits.
18. Parliament's Environment Committee is now calling for submissions on the Fast-track Approvals Bill before 19 April 2024.
19. Council staff are contributing to sector-wide submissions to provide detailed feedback on the Bill. In addition, Council staff have prepared a separate draft submission to uphold Council's commitment to formally acknowledge and support priorities identified by Iwi leaders.
20. Refer to the submission in the Report **24-113 Submission on Fast-Track Approvals Bill** on this Agenda for the Operations – Environment and Communities Committee.

Support for the retention of Te Mana o te Wai.

21. The Coalition Government announced its 100-day plan on 29 November 2023, which resulted in the repealing of the Natural and Built Environment Act (NBEA) and Spatial Planning Act (SPA) that were in force from 24 August 2023.
22. In December, Government announced its intention to replace the National Policy Statement for Freshwater Management (NPS-FM) 2020 and gave all councils a three-year extension of 31 December 2027 to publicly notify their freshwater planning instruments. This is to allow councils and their communities more time to consider the implications of a new or changed NPS-FM.
23. More recently, the Government has signalled its intention to amend the Resource Management Act (RMA) 1991 to change how the Te Mana o te Wai hierarchy of obligations is applied to individual consent applications.
24. This change would mean consent applicants will not have to demonstrate how their individual activity adheres to the hierarchy, and consent authorities won't be able to consider the hierarchy of obligations in their decision-making.
25. Te Mana o Te Wai remains in the NPS-FM and Council are developing our freshwater plans to give effect to the Policy Statement.
26. As outlined in the 20 March Council Report [24-22 Freshwater Planning Update](#) we are currently on track to notify in mid-2026 before a repeal and replacement is anticipated to occur.
27. A resolution that "Council supports the retention of Te Mana O Te Wai." was added to this report for decision and adopted by Council.

ASSESSMENT of SIGNIFICANCE - AROTAKENGA o NGĀ HIRANGA

Consideration of consistency with and impact on the Regional Land Transport Plan and its implementation

Overall Process: Low Significance

This Report: Low Significance

Impacts on Council's delivery of its Financial Strategy and Long Term Plan

Overall Process: Low Significance

This Report: Low Significance

Inconsistency with Council's current strategy and policy

Overall Process: Low Significance

This Report: Low Significance

The effects on all or a large part of the Gisborne district

Overall Process: High Significance

This Report: High Significance

The effects on individuals or specific communities

Overall Process: Medium Significance

This Report: Medium Significance

The level or history of public interest in the matter or issue

Overall Process: High Significance

This Report: High Significance

28. This report is part of a process to arrive at a decision that will/may be of N/A level in accordance with the Council's Significance and Engagement Policy

29. While the decision to endorse support of iwi priorities concerning Government's policy commitments does not materially impact assets or work programmes, the effects endorsing a position is of high significance to:

- a. effects on individuals or specific communities
- b. the impact on the relationship of Māori including the importance of tikanga and their relationship with ancestral land, water sites, wahi tapu, valued flora and fauna, and other taonga
- c. the level or history of public interest in the matter or issue
- d. consistency with Council's current strategies and policies including the Strategic Priorities in the Long Term Plan.

TANGATA WHENUA/MĀORI ENGAGEMENT - TŪTAKITANGA TANGATA WHENUA

30. The decision to endorse support of iwi priorities are for consideration as a result of engagement with Iwi leadership on 8 February 2024. Support in principle has been communicated to Iwi governance on 22 February 2024.

COMMUNITY ENGAGEMENT - TŪTAKITANGA HAPORI

31. Community engagement is not required with regard to the decisions in this report.

CLIMATE CHANGE – Impacts / Implications - NGĀ REREKĒTANGA ĀHUARANGI – ngā whakaaweawe / ngā ritenga

32. The decision to endorse support of iwi priorities concerning Government's policy commitments has no implications for Climate Change.

CONSIDERATIONS - HEI WHAKAARO

Financial/Budget

33. The decision to endorse support of iwi priorities concerning Government's policy commitments has no additional budget than what will be delivered through current workstreams relating to the priorities.

Legal

34. The decision to endorse support of iwi priorities concerning Government's policy commitments does not directly have any legal implications, however further work to examine new policy direction proposed by government will require robust legal review.

POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE me ngā RITENGA WHAKAMAHERE

35. The decision to endorse support of iwi priorities concerning Government's policy commitments is aligned to existing Council decisions, policy and plans.

36. It should be noted that the future enactment of Government legislation may require Council to adhere to national policy that contravenes the decision within this report.

RISKS - NGĀ TŪRARU

37. The implications of retracting support for the priorities already signalled in principle will negatively impact relationships and existing commitments to Iwi / tangata whenua. This would also present a disjointed regional approach to new policy introduced by Government.

ATTACHMENTS - NGĀ TĀPIRITANGA

1. Attachment 1 - Zone 3 LGNZ Remit March 2024 [24-117.1 - 2 pages]
2. Attachment 2 - Mo LG letter to councils with established Māori wards APRIL 2024 [24-117.2 - 2 pages]

Te pae tawhiti

March 2024
 Horizons Regional Council
 Palmerston North City Council
 Horowhenua District Council

**Proposed Remit to 2024 LGNZ AGM:
 Local Government Constituent Wards will not be subjected to referendum.**

Subject all wards equally to a referendum

That LGNZ lobbies central government to ensure that Māori wards and constituencies are treated the same as all other wards in that they should not be subject to a referendum. We oppose the idea that Māori wards should be singled out and forced to suffer a public referendum.

BACKGROUND

Māori wards and constituencies serve on district, city and regional Councils in New Zealand and represent local ratepayers and constituents registered on the Māori parliamentary electoral roll.

The purpose of Māori wards and constituencies is to ensure Māori are represented in local government decision making.

In February 2021, the Government at the time made legislative changes which would uphold local council decisions to establish Māori wards and abolish the existing law which allowed local referendums to veto decisions by councils to establish Māori wards.

The Local Electoral (Māori Wards and Māori Constituencies) Amendment Act 2021, eliminated mechanisms for holding referendums on the establishment of Māori wards and constituencies on local bodies.

Many Councils took the opportunity to make decisions about establishing Māori wards after the law change and as a result, the 2022 local elections saw six of the eleven regional councils (54.5%) have Māori constituencies and 29 of the 67 territorial authorities (43.3%) have a Māori ward/s.

Horizons Regional Council, and all seven District Councils of this region, have Māori wards.

Following the legislation changes, there was a significant increase in Māori representation. The 2022 Local Government election saw the highest number of Māori elected members in local government, growing from 5% to 22%. It is evident the introduction of Māori wards and constituencies empowered more Māori to nominate, stand, vote, and participate in local government.

RELATIONSHIP TO LGNZ POLICY PRIORITIES

The proposed remit fits within LGNZ's stance that they too believe that Māori wards and constituencies should be treated the same as other wards in that they should not be subject to a referendum or if so, all wards should be subjected to the referendum.

The Coalition Government has indicated that they will make legislative changes which will only apply to Māori ward constituencies but not all wards. This shows a prejudice to Māori, a complete lack of fairness and will result in further disengagement of Māori in local government.

We ask that status quo remains, where Councils are empowered to make decisions about the make-up of their representation through the Representation Review process.

OUTCOMES TO DATE

This is a priority area for LGNZ, however there is not a definitive outcome yet.

SUGGESTED ACTION TO BE TAKEN BY LGNZ

LGNZ to lobby the Coalition Government to not make legislative changes that will see the demise of Māori representation and engagement in local government.

SAM BROUGHTON – President LGNZ - RNZ Article Feb 2024

- *Councils are attacking the government's proposal to bring back local referenda for Māori wards.*
- *The former Labour government abolished them in 2022 saying no other types of wards, such as rural wards, went to a vote.*
- *But the coalition has agreed to restore the right to have a referendum, including requiring a vote on any wards set up without referendum at the next local elections.*
- *The president of Local Government New Zealand Sam Broughton said all wards should be treated the same and local decisions should be left up to councils.*

By email

Dear Mayors and Chairs,

How Cabinet decisions relating to 2025 Local Elections will affect councils with established Māori wards

I am writing to give you an update on the Government's progress implementing coalition agreements on changes to the legislation for Māori wards and constituencies. This letter also outlines the proposed timing for changes, and the next steps and options for your council.

Reinstatement of the pre-2021 binding poll provisions

The Government will introduce a Bill in the next few months to restore binding polls on the establishment of Māori wards (and constituencies). The intention is that the changes will be enacted by the end of July 2024. There will be an opportunity to make submissions to select committee on this Bill.

From the next term of local government, councils will be able to initiate binding polls on Māori wards. Electors will also be able to petition their council to hold a binding poll. The policy settings for binding polls will be restored to as they were prior to 2021, including the 5% threshold for petitions calling for a binding poll.

Transitional arrangements and options for your council

The Bill will also include transitional arrangements for councils, such as yours, that established Māori wards since 2021 without an opportunity for a binding poll. This is to deliver on the coalition agreements to require these councils to hold polls at the 2025 local elections. The Government is conscious that many councils have unique local circumstances and so the Bill will include options for how your council manages the transition.

Your council is one of a group that established Māori wards or constituencies for the first time at the 2022 local elections. Government policy is that you will have the option to either:

- Option 1 - resolve this year to disestablish the Māori wards or constituencies by council resolution (to take effect at the 2025 local elections); or
- Option 2 - hold a binding poll on the question of Māori wards/constituencies at the 2025 local elections (to take effect at the 2028 local elections).

If your council resolves this year to disestablish the Māori wards/constituencies (Option 1) you will need to complete a shortened representation review process by the beginning of April 2025 (Option 1A). The shortened process will be provided for in the Bill.

If completing a shortened representation review process will be challenging for your council, there may also be an alternative implementation option (Option 1B). Option 1B would mean reverting back to your most recent representation arrangements, from before the Māori wards/constituencies were established, for the purposes of the 2025 local elections. This option is still under development and my officials will be happy to discuss it with you. Under either of 1A or 1B your council would be required to complete a standard representation review prior to the 2028 local elections.

If your council prefers the default option of holding a binding poll at the 2025 local elections (Option 2), and the poll result is against Māori wards/constituencies, your council will then need to follow the standard representation review process before the 2028 local elections.

Local elections timeframes

The Bill will also make changes to some of the statutory timeframes for the 2025 local elections and future elections and polls, including increasing the voting period from 22.5 to 32.5 days. The postal delivery period for voting papers will increase to 14 days in response to advice from NZ Post that they will not be able to meet current statutory timeframes. This will seek to ensure that NZ Post can deliver voting papers to all electors within legislated timeframes. My officials can provide more information on the proposed timing changes if you wish.

Contacts for more information

Officials from the Department of Internal Affairs and the Local Government Commission will be available to discuss these options and provide advice and support on how your council will be affected.

For questions about the Bill, and the changes to Māori ward processes (including transitional arrangements) and election timelines, please contact: Rowan Burns, Policy Manager, Governance and Democracy Team, Department of Internal Affairs, rowan.burns@dia.govt.nz, 027 302 5426.

For questions about how to manage representation review processes, please contact the Local Government Commission. You can contact the Commission by email at info@LGC.govt.nz, or by phone at (04) 460 2228.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Simeon Brown', written in a cursive style.

Hon Simeon Brown
Minister of Local Government